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(2025) 12 J&K CK 1707

In the Jammu And Kashmir High Court

Case No : MA No.115 Of 2016

Iffco Tokio General Insurance Company Ltd — APPELLANT

Vs

Renu Moza — RESPONDENT

Date of Decision : 16-12-2025

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2025) 12 J&K CK 1707

Hon'ble Judges : Moksha Khajuria Kazmi, J

Bench : Single Bench

Advocate : Dewakar Sharma, Rupak Ratta

Final Decision : Disposed Of

Judgement

Moksha Khajuria Kazmi, J

1. This appeal filed under Section 173 of the Motor Vehicles Act, 1988 is directed against an award dated 22nd April, 2016 passed by the Motor Accident Claims Tribunal, Jammu (herein after referred to be as the "Tribunal") in File No.446/C/2012 titled Renu Moza and others v. IFFCO TOKIO General Insurance Company Ltd and another, whereby an award of Rs.1,44,44,960/- along with interest @ 7.5% per annum from the date of institution of the claim petition till realization in favour of the claimants/respondent Nos. 1 to 4 on account of death of Vineet Moza, husband of respondent No.1, father of respondent No.2 and son of respondent Nos. 3 and 4.

FACTUAL MATRIX

2. On 29th April, 2012 at around 6.45 am, a motor vehicular accident occurred at National Highway Milwan, Damota Morh, Kangra (HP), involving offending vehicle No.HR-26-BL-1901, being driven rashly and negligently by its diver-cum-owner, Raju Pandita, the offending vehicle skidded off the road and hit against the standing trees, thereby causing grievous injuries to both, driver and deceased Vineet Moza, as a result of which, both died on spot.

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3. Respondent Nos. 1 to 4, being the dependents of deceased, Vineet Moza, filed a claim petition before the Tribunal, thereby seeking compensation to the tune of Rs.1,50,000,00.00 on account of death of deceased Vineet Moza, along with interest @ 12% per annum. The appellant-Insurance Company contested the claim of the claimants by filing its objections. Based on the pleadings of the parties, following issues were framed for determination, by the Tribunal:-

"1. Whether an accident took place on 29.04.2012 at about 6.45 am National Highway Milwan, Damota Morh, under the jurisdiction of Police Station Indaura, District Kangra, HP by rash and negligent driving of the vehicle bearing registration No.HR-26-BL-1901 by its driver as a result of which deceased Veneet Moza received fatal injuries? OPP

2. If issue No.1 is proved in affirmative, whether petitioners are entitled to compensation: If yes, to what amount and from

whom ?OPP

3. Whether the offending vehicle was being driven at the time of the accident in violation of terms and conditions of policy of insurance and respondent insurance company is not liable?

OPR-1

4. Relief?O.P.Parties."

4. In order to substantiate their claim, claimants, respondent NO.1 and 4 besides appearing themselves in the witness box examined Janak Raj Deep Singh, however, appellant has not produced any witness to rebut the claim of the claimants. The Tribunal, after appreciating the oral as well as documentary evidence and also hearing counsel for the parties, decided all the issues in favour of the claimants/respondent Nos. 1 to 4 and against the appellant-Insurance Company. Assessing the monthly income of the deceased as Rs.80,455/-, deducting income tax as per slab of income tax for the financial year, 2012, adding 50% towards future prospects, deducting 1/4th towards personal expenses and applying the multiplier of 15, assessed the total loss of dependence to the tune of Rs.1,42,14,960/-. Vide award impugned, the Tribunal has awarded total compensation of Rs.1,44,44,960/- along with interest @ 7.5%, in the following manner:-

1. Loss of dependence = Rs.1,42,14,960/-

2. Funeral expenses = Rs.25,000/-

3. Loss of consortium = Rs.1,00,000/-

4. Loss of love and affection to parents= Rs.1,00,000/-

5. Loss of Estate = Rs.5,000/-

Total Rs. = Rs.1,44,44,960/-

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5. The appellant-Insurance Company is aggrieved of the impugned award only to the extent of compensation awarded by the Tribunal and not entitlement of the claimants and liability of the appellant to indemnify respondent No.5.

6. Learned counsel for the appellant states that the amount of compensation awarded by the Tribunal is excessive and exorbitant, as Tribunal has not considered various factors while computing the loss of dependence.

7. On the other hand, learned counsel for the claimants/respondent Nos. 1 to 4 submits that the since the claimants have lost their breadwinner, they would be satisfied, if the compensation amount is paid to them at an earliest.

8. Having heard learned counsel for the parties and perused the material on record, the counsel for the parties were put a specific question as to whether the parties are ready for some amicable settlement, to which they replied in affirmative.

9. The counsels for the parties were directed by this Court to specify the amount to be paid as compensation to the claimants/respondent Nois.1 to 4, as per their calculation. As per the calculation provided by learned counsel for the claimants, respondent Nos. 1 to 4 are entitled to an amount of Rs.1,66,10,000/- along with interest, whereas as per the calculation provided by learned counsel for the appellant-Insurance Company, amount of compensation to which the claimants are entitled for the loss of their breadwinner comes to Rs.1,14,65,995/-.

9. In response to the calculation made and provided by the learned counsel for the appellant-Insurance Company, Mr. Rupak Ratta, learned counsel appearing for respondent Nos.1 to 4/claimants, submits that the claimants would feel satisfied if the appeal is disposed of by directing the appellant-Insurance company to pay the amount of compensation as per the calculation made by their counsel.

10. Accordingly, the impugned award is modified and a total compensation of Rs.1,14,65,995/- is awarded in favour of the claimants/respondent Nos. 1 to 4 along with interest @7.5%, as has been awarded by the Tribunal. Other terms and conditions of the impugned award shall remain intact. If the amount deposited by the appellant does not satisfy the amount of compensation, in terms of the modified award, the appellant-Insurance Company shall deposit the balance amount within a period of two months. If the amount deposited exceeds the modified award, the same shall be refunded to the appellant-Insurance Company. The Registry shall release the amount in favour of the claimant/ respondent Nos. 1 to 4, in terms of the modified award, on proper verification and identification.

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