(2016) 06 SHI CK 0098

In the High Court Of Himachal Pradesh

Case No : FAO No. 495 of 2010.

National Insurance Company Ltd. - Appellant @HASH Smt. Jhansi Devi and Others

Date of Decision : 17-06-2016

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2016) ILRHP 1961

Hon'ble Judges : Mansoor Ahmad Mir, CJ.

Bench : Single Bench

Advocate : Mr. Lalit K. Sharma, Advocate, for the Appellant; Mr. Ashwani Pathak, Senior Advocate, with Mr. Sandeep K. Sharma, Advocates, for the Respondent Nos. 1 to 5; Ms. Leena Guleria, Advocate, vice Mr. G.R. Palsra, Advocate, for the Respondent Nos. 6 and 7

Final Decision : Disposed Off

Judgement

Mr. Mansoor Ahmad Mir, C.J.(Oral) - This appeal is directed against judgment and award, dated 7th September, 2010, made by the (Motor Accident Claims Tribunal)-cum-Presiding Officer, Fast Track Court, Mandi, H.P. (for short "the Tribunal") in Claim Petition No. 117 of 2003/210 of 2005, titled as Smt. Jhansi Devi and others v. Sh. Kamal Kishor and others, whereby compensation to the tune of Rs. 13,45,064/- with interest @ 9% per annum from the date of filing of the petition till its realisation came to be awarded in favour of the claimants and the insurer came to be saddled with liability (for short "the impugned award").

2. The claimants, the driver and the owner-insured of the offending vehicle have not questioned the impugned award on any count, thus, has attained finality so far it relates to them.

3. The appellant-insurer has questioned the impugned award on the ground that the amount awarded is excessive.

4. I have examined the pleadings and gone through the impugned award. It is not the case of the appellant-insurer that the owner-insured has committed any breach, not to speak of wilful breach. Thus, the appeal, on the face of it, is

misconceived.

5. Learned counsel for the appellant-insurer argued that the amount awarded is excessive. I have gone through the discussions made in paras 18 to 20 of the impugned award and am of the considered view that the amount appears to be meagre, cannot be said to be excessive in any way and merits to be upheld.

6. However, it appears that the Tribunal has fallen in an error in awarding interest @ 9% per annum.

7. It is beaten law of land that the rate of interest should be awarded as per the prevailing rates, in view of the judgments rendered by the Apex Court in cases titled as United India Insurance Co. Ltd. and others v. Patricia Jean Mahajan and others, reported in (2002) 6 SCC 281; Santosh Devi v. National Insurance Company Ltd. and others, reported in 2012 AIR SCW 2892; Amrit Bhanu Shali and others v. National Insurance Company Limited and others, reported in (2012) 11 SCC 738; Smt. Savita v. Binder Singh & others, reported in 2014 AIR SCW 2053; Kalpanaraj & Ors. v. Tamil Nadu State Transport Corpn., reported in 2014 AIR SCW 2982; Amresh Kumari v. Niranjan Lal Jagdish Pd. Jain and others, reported in (2015) 4 SCC 433, and Mohinder Kaur and others v. Hira Nand Sindhi (Ghoriwala) and another, reported in (2015) 4 SCC 434, and discussed by this Court in a batch of FAOs, FAO No. 256 of 2010, titled as Oriental Insurance Company v. Smt. Indiro and others, being the lead case, decided on 19.06.2015.

8. Viewed thus, the rate of interest is reduced from 9% to 7.5% per annum from the date of filing of the claim petition till its realization.

9. At this stage, learned counsel for claimants-respondents No. 1 to 5 stated at the Bar that the Accounts Branch of this Registry has deducted about Rs. 8 lacs towards income tax.

10. I deem it proper to record herein that this Court in CWPIL No. 9 of 2014, titled as Court on its own motion v. The H.P. State Cooperative Bank Ltd. and others, decided on 15th October, 2014, has held that the award amount and interest accrued on the deposits made under the orders of the Court in Motor Accident Claims cases is not liable for income tax.

11. In view of the above, the amount cannot be deducted.

12. Registry is directed to release the entire awarded amount in favour of the claimants strictly as per the terms and conditions contained in the impugned award through payee''s account cheque or by depositing the same in their respective bank accounts.

13. Having said so, the impugned award is modified and the appeal is disposed of, as indicated herein above.

14. Send down the record after placing copy of the judgment on Tribunal''s file.

