
(1985) 09 P&H CK 0056
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 933 of 1985

New India Assurance Co. Ltd.

APPELLANT

Vs

Ind Kaur and Others

RESPONDENT

Date of Decision : 02-09-1985

Acts Referred:

Motor Vehicles Act, 1939 — Section 92A, 92B

Citation : (1986) ACJ 194 : AIR 1986 P&H 153 : (1987) 62 CompCas 323 :
(1986) 2 ILR (P&H) 52 : (1985) 88 PLR 475

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Judgement

1. A claim petition was filed on behalf of the legal representatives of Sohan Singh deceased who died in the accident, which had taken place on 10-6-1982. During the pendency of this petition, the Motor Vehicles Act, 1939 was amended and S. 92A was added which came into force from 1-10-1982. In view of the said provision, the learned Claims Tribunal allowed a sum of Rs.7,500/- by way of compensation on the principle of "no fault" vide order dt. 3-2-1984. This amount was duly deposited by the pt-company i.e. New India Assurance Company. Ultimately, the claim petition was decided on 1-6-1984 and a sum of Rs.48,800/- was awarded by way of compensation. In execution proceedings, New India Assurance Company made an application for adjustment of Rs. 7500/- from the total award made for Rs.48,00/-. This application filed on behalf the New India Assurance Company was declined. Dissatisfied with the same, the Company has filed this petition in this Court.

2. Learned counsel for the pt contended that on reading S. 92A and the perusal of S. 92B together, it is evident that the amount paid earlier on the principle of "no fault" under S. 92A is to be adjusted against the claim which is ultimately allowed by the Tribunal unless it is otherwise directed.

3. After hearing the learned counsel for the parties, I find force in this contention raised on behalf of the pt. S. 92b reads as under:--

"92B. Provisions as to other right to claim compensation for death or permanent disablement:--(1) The right to claim compensation under S. 92A in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under S. 92A in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under S. 92A and also in pursuance of any right on the principle of fault, the claim for compensation under S. 92A shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under S. 92A is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and-

(a) if the amount of the first mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition the first mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which exceeds the first-mentioned compensation ;

(b) if the amount of the first-mentioned compensation is equal to or less than the amount of the second-mentioned compensation he shall not be liable to pay the second-mentioned compensation".

4. Sub-section (3)(a) of S. 92B clearly provides that if the amount of the first mentioned compensation is less than the amount of the second mentioned compensation the person liable has to pay in addition to the first mentioned compensation only so much of the second mentioned compensation as is equal to the amount by which it exceeds the first mentioned compensation. Thus the Assurance Co. was to deposit the amount of Rs.48,000/- adjusting the amount earlier paid by it i.e. Rs.7,500/-. The submission of the counsel for the respondent that these are two different awards has thus no force.

5. There is no gain saying that the Court can take the aid of the "Objects and Reasons" for interpreting a provision of the statute and therefore, it will be beneficial to look to the same. Therein also it has been provided that "the compensation payable by an owner on the basis of wrongful act or negligence on his part would be reduced by the compensation already paid by him under this Chapter. " "This Chapter" therein refers to Chapter VII-A. S. 92A and S. 92B are under this new Chap. VII-A. Thus on the over all view of the matter the approach of the learned Tribunal was wrong and illegal. The Company is entitled to adjust the amount already paid under S. 92A of the Motor Vehicles Act.

6. Consequently, the petition succeeds, the impugned order is set aside and the application for adjusting the amount of Rs.7500/- from the total award made for Rs.48000/- is allowed with no order as to costs.

7. Petition allowed