(2016) 02 SHI CK 0013

In the High Court Of Himachal Pradesh

Case No : FAO (MVA) No. 539 of 2009

New India Assurance Co. Ltd. APPELLANT

Vs

Simro Devi and Ors. RESPONDENT

Date of Decision : 26-02-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2016) 2 HimLR 1265 : (2016) ILRHP 511

Hon'ble Judges : Mansoor Ahmad Mir, C.J.

Bench : Single Bench

Advocate : Bhuvnesh Sharma, Advocate, Maan Singh, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J. (Oral) - This appeal is directed against the judgment and award dated 13.08.2009, made by the Motor Accident Claims Tribunal Hamirpur, H.P. in MAC Petition No. 66 of 2007, titled Simro Devi and another v. Vijay Singh and others, for short "the Tribunal", whereby compensation to the tune of Rs. 5,25,200/- along with interest @7.5% per annum came to be awarded in favour of the claimant, hereinafter referred to as "the impugned award", for short.

2. Appellant, by the medium of this appeal, has questioned the impugned award on the grounds taken in the memo of appeal.

3. Claimants and other respondents have not questioned the impugned award on any ground. Thus, it has attained finality so far as it relates to them.

4. Heard.

5. The factum of insurance is not disputed. The grounds taken in the appeal cannot be pressed into service in view of the document i.e. Ext. RW1-C and statement of RW1. However, the learned counsel for the appellant half heartedly

argued that the insurance was not subsisting at the time of the accident. This argument is without any force for the simple reason that they have already accepted the claim of the owner and have released the amount so far as it relate to him.

6. The factum of insurance is admitted. The grant of compensation cannot be defeated on flimsy grounds and technicalities have no role to play.

7. Having said so, the appeal does not survive.

8. At this stage, the learned counsel for the appellant argued that the amount awarded is excessive. This argument also cannot be pressed into service. The Tribunal has held that the deceased was a daily-wager and taken his minimum wages to the tune of Rs. 3300/- per month which should not have been less than Rs. 4500/- per month, keeping in view latest judgment of the Supreme Court and judgments delivered by this Court. Thus, the amount cannot be said to be excessive rather meagre.

9. Accordingly, the impugned award needs no interference and the same is upheld and the appeal is dismissed.

10. The insurer is directed to deposit the amount within six weeks from today, if not already deposited. The Registry on deposit of the same is directed to release the amount in favour of the claimants, strictly as per the terms and conditions contained in the impugned, through payee''s cheque account, or by depositing the same in her bank account, after proper verification.

11. Send down the record forthwith, after placing a copy of this judgment.