

(2002) 11 J&K CK 0014
In the Jammu And Kashmir High Court
Case No : CIMA No. 254 of 2002

New India Insurance Co.

APPELLANT

Vs

Shabnam Bano and Others

RESPONDENT

Date of Decision : 27-11-2002

Acts Referred:

Citation : (2003) 1 JKJ 132

Hon'ble Judges : T.S. Doabia, J

Bench : Single Bench

Advocate : R.K. Gupta and M.I. Sherkhan, for the Appellant;

Final Decision : Dismissed

Judgement

T.S. Doabia, J.—The deceased in this case was a teacher. He died on 19-03-1996 in an accident while he was travelling in a Motor

Vehicle bearing registration No. 4851 JKS. The fact that some compensation is required to be given to the claimants is not being disputed. All that

is being said is that the award passed by the Motor Accident Claims Tribunal Bhaderwah is excessive and is not being on facts. Tribunal assessed

the income of the deceased at Rs 8000/- PM. Tribunal took note of the fact that the income of the deceased would have gone up as the deceased

would have earned promotion. It was in this manner his income was assessed at Rs 10000/-. It is action on this basis compensation has been

allowed.

2. Learned counsel appearing for the appellant company submits that there was nothing on the record to indicate that there would have been

enhancement in the salary and therefore, judgement which is based on the conjuncture cannot be sustained.

3. The deceased was a teacher. He is governed by Rules and Regulation framed by the State of J & K. It be seen that Jammu & Kashmir Civil

Service (Revised Pay) Rules 1998 were enacted. These came into force on 19-01-1996 w.e.f. 01-01-1996 pay of teacher was to be fixed in

terms of paragraph 15 (e) of the Rules. This paragraph i.e. 15 (e) is being reproduced below.

All the teacher carrying the existing pay scale of Rs 1200-2040 will be placed in the revision pay scale of Rs 4000-6000. For future recruitment

the pay scale of Rs 4000-6000 will be available for graduate teachers. The under graduate teachers will initially be recruited is the pay scale of Rs

3050-4590 and will be placed in the pay scale of Rs 4000-6000 after completing 8 years of service in the pay scale of Rs 3050-4590.

4. These rules were published in the J & K Government Gazette on 19-01-1998. These came into effective w.e.f. 01-01-1996. Thus argument

put across by the learned counsel for the appellant company that the judgement is based on the conjuncture is an argument which cannot be

accepted. Government Gazette which is duly published can be taken note of. It is this aspect of the matter if taken note of them it cannot be said

that income figure has been arrived at on the basis of the conjuncture, If the grades as given therein are taken note of then it can safely be said that

the deceased was having the same income at the time of his death as indicated by the Motor Accident Claims Tribunal. If that income is taken note

of and annual dependency is determined and a multiplier as applied (as can legally be applied), taking into consideration the age of the deceased

then the compensation cannot be said to be on the higher side. The compensation has been awarded after taking into consideration correct

parameters.

5. This appeal is found to be without merit and is dismissed. Appellant-Company shall deposit the amount with the Registrar Judicial of this court

with in a period of two months from today. In case this is not done within the above stipulated period then the appellant-company would have to

pay interest at the rate of 12% P.A.. Out of the awarded amount. 20% would be deposited in the fixed deposit account for six months. Remaining

80% amount would be deposited in a fixed deposit for a period of three years. Claimants would be at liberty to receive interest. Awarded amount

would be deposited with the State Bank Of India Gandhi Nagar Branch Jammu.
Disposed of Accordingly.