courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 16/08/2026

(2022) 08 JH CK 0008

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 103 Of 2008

Oriental Insurance Co. Ltd — APPELLANT

Vs

Pramila Singh And Others — RESPONDENT

Date of Decision : 02-08-2022

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 165, 166
Indian Penal Code, 1860 — Section 34, 201, 302

Citation : (2022) 08 JH CK 0008

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Alok Lal, Girish Mohan Singh, Swati Shalini

Final Decision : Allowed

Judgement

Gautam Kumar Choudhary, J

1. Appellant is the Insurance Company which has preferred the instant appeal against the Judgment and award of compensation in Compensation Case no. 01 of 2006.

2. As per the case of the claimant the deceased Ramendra Kumar Singh was driver of the Indica car and on 26.7.2003 while he was returning to Ranchi, the car was waylaid and he was killed and car was taken by the road robbers. The deceased had a monthly income of Rs. 3200/- from a tent house.

3. The learned Tribunal awarded a total compensation of Rs.2,72,000/-with interest @ 7 % against the insurance company under Section 163 A of the M.V. Act 1988.

4. Appeal has been preferred mainly on the ground that the vehicle was insured as a 'private car' but was being used for commercial purpose. The death was not accidental but homicidal in nature as charge-sheet in this case has been filed under Sections 302,201 & 34 of the IPC.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/oriental-insurance-co-ltd-appellant-...

5. Learned Counsel on behalf of the respondent contends that the death occurred during the use of motor vehicle, therefore the Insurance Company was liable to pay the compensation amount. Reliance has been placed on the Judgment of this Court in M.A. No.619 of 2018 Sugandha Devi and ors Vs Bajaj Alianz General Insurance Co. Ltd. Ranchi which involved a case wherein the deceased was killed by gun-shot injury in a road robbery. The Court relying on the decision of Rita Devi and Others Vs. New India Assurance Company Ltd and Another reported in (2000) 5 SCC 113 held that it was not a case of murder simpliciter but a case of accidental murder and therefore in terms of Section 165 of the Motor Vehicle Act, the claim application of the claimants was maintainable. Further, it has been held in National Insurance Co. Ltd. v. Shiv Dutt Sharma; 2002 SCC OnLine J&K 46 : 53. On the basis of the judicial pronouncements and the material which has come on the record, it is concluded:

(i) That a passenger travelling in a bus when he suffers from an injury on account of bomb explosion or on account of any other activity including terrorist activity, he would be well within his rights to claim compensation. This view is spelt out from the decision given by the Supreme Court of India in Shivaji Dayanu Patil v. Vatschala Uttam More, 1991 ACJ 777 (SC) and the latter decisions noticed above;

(ii) That even if a person is not actually in the vehicle and is standing outside and suffers an injury, even in that case Supreme Court of India has allowed compensation in Shivaji Dayanu Patil v. Vatschala Uttam More, 1991 ACJ 777 (SC). Therefore, merely because some of the victims were taken out of the bus and thereafter shot dead, would not make any difference;

6. The fact of the present case is similar to the above authorities and the murder was not the dominant motive of the assailants, but it was to rob the car from its occupants and in the process the driver was accidentally killed. Therefore, death can be said to be caused during the use of the motor vehicle.

7. On the issue of quantum of compensation, although the appeal has been preferred on behalf of the Insurance Company but there is no impediment to enhance the compensation amount in view of the ratio decided in 2020 SCC On Line SC 1312 Surekha and ors Vs Santosh and others as the object is to award fair and just compensation to the victims. The present claim application has been filed under Section 163 A of the 1988 Act as the accident took place on 27.7.2003. The Tribunal awarded a compensation of Rs. 2,72,000/- on multiplier basis.

8. The plea of the Insurance Company that the vehicle was being used for commercial and not private use is not backed by any evidence worth consideration. In the absence of proof that the motor vehicle was being used for commercial purpose no such inference can be drawn that it resulted in breach of term of insurance policy.

9. This Court is also of the opinion that while deciding compensation arising out

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/oriental-insurance-co-ltd-appellant-…

of motor vehicle accidents the claim Tribunals are not tied down by the usual and normal rules of interpretation of statutes as held in Urmila Haldar Vs New India Assurance Company limited; 2018 SCC On Line Cal 11751.

“We are, thus, of the clear view that while deciding claim applications under the 1988 Act, be it under Section 166 or Section 163-A, the ordinary rule of litigation that the rights of the parties stand crystallized on the date of commencement of litigation and the right to relief should be decided by reference to the date on which the plaintiff entered the portals of the Court, may not apply. The claim applications under Section 166 and Section 163-A, for a limited purpose, form a class of its own in the sense that contrary to other jurisdictions where the Court considering the facts and circumstances proceeds to grant relief to the suitor either wholly or partially but not in excess of what is claimed, the tribunals functioning under Section 165 of the 1988 Act are under no compulsion to award compensation restricted to the claimed amount before it at the instance of the claimants.”

10. The learned Tribunal has awarded compensation on the basis of structural formula as provided under second schedule of the old Act in view of Section 163 A. However, in view of the 2018 amendment Act which came into force on 22nd May 2018 and for the reasons discussed above, this Court is of the view that although the accident took place before coming into force of this Act, the claimants shall be entitled to compensation under Section 163 A of the amended Act 2018. It provides that the award of compensation shall increase every year by 5% from 1st January 2019. Thus with increase of 5% every year the amount shall work out to Rs 5,75,000/- for three year from 2019-21.

11. Under the aforesaid facts and circumstance of the case and for the reasons discussed above, I am of the considered view that the claimants are entitled to compensation of Rs 5,75,000/- (five lakh seventy five thousand) under Section 163 A from the date of accident with simple interest @ of 7.5% from the date of claim application. The Insurance Company is accordingly directed to make payment of the compensation amount to the Tribunal within a month of this order. The Tribunal shall pay the compensation amount to the claimant.

12. The appeal is allowed as at above. The Insurance Company is permitted to withdraw statutory amount.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/oriental-insurance-co-ltd-appellant-…