

(2020) 01 JH CK 0075

In the Jharkhand High Court

Case No : Miscellaneous Application No. 786 Of 2018

Reliance General Insurance Co. Ltd

APPELLANT

Vs

Akbar Ansari And Ors

RESPONDENT

Date of Decision : 06-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0075

Hon'ble Judges : Kailash Prasad Deo, J

Bench : Single Bench

Advocate : Amit Kumar Das, Swati Shalini

Judgement

Heard, learned counsel for the appellant.

Appellant- Reliance General Insurance Co. Ltd. has preferred this appeal against the award dated 01.10.2018 in Motor Accident Claim Case No.41

of 2016 passed by learned District Judge-II-cum M.A.C.T., Giridih whereby the respondents/claimants- Akbar Ansari and Md. Hakim Ansari have

been awarded compensation to the tune of Rs.38,66,941/- along with simple interest @ 6% per annum from the date of filing of the claim application

i.e. 24.06.2016 till realization of the amount and if the amount is not paid within 60 days from the date of order the interest shall be charged @ 9% per

annum after expiry of the 60 days.

Learned counsel for the appellant has assailed the impugned award on the ground that the salary of the deceased to the tune of Rs.26,696/- has been

taken for computing calculation without deducting the tax component in view of the judgment passed by the Apex Court in the case of National

Insurance Company Ltd. vs. Pranay Sethi reported in (2017) 16 SCC 680 at paragraph 59.8.

Learned counsel for the appellant has further submitted that the learned Tribunal has taken note of the fact that the permit of the vehicle which has been marked as X/5 was valid from 20.09.2011 to 07.01.2012 whereas accident took place on 14.02.2011, as such, there is violation of terms and conditions of the policy on the part of the owner and if it is so the Insurance Company- O.P. No.2 will be at liberty to recover the same from the owner of the offending vehicle and though the same has been mentioned at para 11 but that has not been incorporated in operative part of the award, as such, the same may be considered.

Learned counsel for the appellant has further submitted that the learned Tribunal has taken multiplier of 14 which was for the age group of 41 to 45 whereas for the age group of 46 to 50 the multiplier is 13. The learned Tribunal has assessed the age of the deceased on the basis of the post mortem examination to be 45 years, which has been marked as X/7 for identification, but while computing the calculation the age has been considered between 40 to 50 years which may change the quantum of the compensation, as such, Lower Court Records may be called for to ascertain the fact of this case. Learned counsel for the appellant has further submitted that there is no provision of penal interest though the learned Tribunal has granted 9% penal interest after 60 days of the date of order, as such, notice is necessary to be issued upon respondents/claimants.

Let notice be issued to the respondents/claimants namely, Akbar Ansari, S/o Late Usman and Md. Hakim Ansari, S/o Late Usman, both are residents of Village- Gopalpur, P.O. & P.S.- Bengabad, District- Giridih (Jharkahnd) as well as Mahendra Mandal (Owner of Tata 407 No.JH-10P-1762), S/o

Nakul Mandal, resident of Village- Pandra Upper Bahiyar, P.O. & P.S. Sarath, District- Deoghar, PIN 815355 (Jharkhand) and Jai Prakash

Chowdhary (Driver of Tata 407 No.JH-10P-1762, S/o Late Beni Choudhary, resident of Village- Lodharia, P.O. Tundi, Police Station Tundi, District-

Dhanbad (Jharkhand) under both process i.e. under ordinary process and registered cover with A/D for which requisites etc., must be filed by 10.01.2020.

Notice shall be issued to the respondents only after filing an affidavit before this Court regarding deposit/payment of Rs.30,00,000/- before the learned Tribunal.

Learned Tribunal is directed to pay the amount of Rs.30,00,000/- to the claimants-respondents after due notice and verification with an affidavit that they shall appear before this Court within 15 days of receipt of the said amount.

Balance amount along with interest @ 7.5% per annum from the date of application i.e. 24.06.2016 shall be considered in view of Dharmpal and Sons

Vs. UP State Road Transport Corporation, 2008 (4) JCR 79 SC at the time of final disposal of this appeal.

Put up this case on 28.02.2020 along with LCR.