

(2019) 04 SHI CK 0059

In the High Court Of Himachal Pradesh

Case No : First Appeal From Order No. 523 Of 2018

Reliance General Insurance Company

APPELLANT

Vs

Aditye & Others

RESPONDENT

Date of Decision : 30-04-2019

Acts Referred:

Citation : (2019) 04 SHI CK 0059

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Chandan Goel, Aman Sood, Romesh Verma, Arvind Sharma

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The instant appeal stands directed, against, the impugned award, rendered by the learned Motor Accidents Claims Tribunal-IV (for short "MACT"), Shimla, H.P., upon, MACP No. 34-S/2 of 2016, (a) wherethrough, compensation amount borne, in a sum of Rs.11,72,400/- alongwith 7.5% simple interest, arising, from the date of filing of the afore claim petition till realisation thereof, (b) was assessed, vis-a- vis, all the petitioners therein, and, (c) the apposite indemnificatory liability thereof stood fastened upon the appellant herein/ respondent No.3, in the afore claim petition.

2. The learned counsel appearing for the appellant, does not contest the validity of the findings, as, recorded by the learned MACT, upon, issue No.1 appertaining to the relevant fatal collision, inter-se, deceased Malti, and, the offending vehicle concerned, being a sequel of the driver thereof, being, rash and negligent in driving it.

3. However, the learned counsel for the appellant, has contended with much vigor, qua with the claimants placing reliance on Mark C, mark whereof is, a, BPL certificate, (i) thereupon, the computation in the impugned award, vis-a-vis, the

per mensem of the deceased, from, her purported agriculture and horticulture work, and, from hers selling milk, being both insagacious besides unbefitting, hence this Court being goaded, to, reduce the compensation amount, assessed, vis-a-vis, the LRs of the deceased Malti.

4. The afore contention of the learned counsel for the appellant, is both frail, and, is legally emaciated, (i) given the learned Tribunal, for, want of cogent and overwhelming proof, being adduced, vis-a-vis, the deceased Malti rather deriving any income, from her, purported agriculture and horticulture work, besides, from her rearing any income from hers selling milk, hence, declining to compute, vis-a-vis, the claimants, in the afore claim petition, the apt loss of dependency therefrom, and, also declined to apply thereon the relevant multiplier, (ii) contrarily, the learned Tribunal proceeded, to, on anchor of the deceased Malti being a housewife, and, hers performing household chores, and, (iii) thereupon there being, a, dire necessity, of, monetization, being visited, vis-a-vis, her performing household work, conspicuously, upon her demise, there being, hence loss to the estate of the afore services rendered during her life time, by the deceased, and, (iv) reiteratedly, hence the claimants suffering deprivation thereof, whereupon, the learned Tribunal proceeded, to, per mensem monetize a sum of Rs.6000-/ qua the domestic services rendered by the deceased vis-a-vis her family. The afore monetization of the domestic service of the deceased, does also, tacitly encompass hence the income derived by the deceased from Agriculture, horticulture, and, from selling milk, dehors non-adduction of any cogent and overwhelming evidence, for, rather meeting succor thereto, and, (v) thereupon the BPL certificate looses its relevance, for any purpose whatsoever.

5. The learned Tribunal thereafter meted 40% accretion thereto, on, anvil of incremental hikes towards future prospects. The meteing of the afore hikes, towards, future prospects, also, does fall within the ambit, of, a verdict recorded by the Hon'ble Apex Court, in, a case titled as National Insurance Company Ltd. vs. Pranay Sethi and others, reported in 2017 ACJ, 2700, (i) given the afore deceased though stricto sensu being neither employed in a government organization, nor, being self employed, rather hers being a house wife, thereupon monetization of her domestic services being amenable, for, computation for recokning the apt dependency, (i) preeminently also when in absence of the deceased, hers surviving family rather are deprived of the benefits, of the services rendered by her, (ii) thereupon, the meteing of 40% hikes towards the per mensem monetized sum of domestic services, rendered by the deceased, is rather within the ambit of Pranay Sethi case (supra), as, the meteing of 40% hikes thereto, bears consonance with the age of the deceased, as, borne in Post mortem report embodied in Ex. PW-2/A. Further more, the quantification of annual depenency of the claimants, upon, the income of the deceased, and, the afore quantum of dependency, being applied, a, multiplier of 17, is also, within the domain of the verdict recorded, by the Hon'ble Apex Court in case titled as Sarla Verma and others versus Delhi Transport Corporation and another, reported in (2009)6 SCC 121.

6. The learned counsel for the appellant has further contended qua the fastening, of, the indemnificatory liability upon the insurer, being inapt, given, though the offending vehicle being reflected in the Registration Certificate, borne in Ex. RW-1/B, to be classified as a Light Goods Vehicle, yet, with the driving licence borne in Ex. RW-1/C, holding reflections qua the holder thereof, being authorized to drive both transport or non-transport vehicle, hence the afore authorization bestowed upon the holder of RW-1/C, being, in apparent dis-concurrence, with, the afore classification of the offending vehicle, as, delineated in RW-1/B, exhibit whereof, is, the apposite RC. However, the afore submission is rudderless, as, an enunciation, is, borne therein qua the holder of the driving licence, being authorized to drive both non- transport and transport vehicle, hence, also visiting a leverage upon the driver of the offending vehicle, to, hence drive a transport vehicle, in, category whereof, the, offending vehicle rather falls, (i) thereupon the authorization bestowed upon the driver of the offending vehicle, to, drive a transport vehicle, obviously rendered him authorized, to, drive the offending vehicle concerned, given, it being enunciated in Ex.PW-1/B, to be a light goods vehicle, hence a transport vehicle.

In view of the above, I do not find merit in the appeal, the same is accordingly dismissed, alongwith all pending applications.