

(2016) 01 SHI CK 0049
In the High Court Of Himachal Pradesh
Case No : FAO No. 410 of 2009

Smt. Jamila Begum and others	Vs	APPELLANT
Sh. Amar Jeet Singh and others		RESPONDENT

Date of Decision : 08-01-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2016) AAC 628 : (2016) 1 HimLR 612 : (2016) ILRHP 333

Hon'ble Judges : Mansoor Ahmad Mir, CJ.

Bench : Single Bench

Advocate : Mr. Karan Singh Kanwar, Advocate, Ms. Aruna Sharma, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mansoor Ahmad Mir, CJ. (Oral)- This appeal is directed against the judgment and award, dated 02.04.2009, made by the Motor Accident Claims Tribunal-II, Sirmaur District at Nahan, H.P. (for short "the Tribunal") in M.A.C. Petition No. 18N/ 2 of 2007, titled as Smt. Jamila Begum and others v. Shri Amar Jeet Singh and others, whereby compensation to the tune of RS. 1,42,000/with interest @ 7.5% per annum from the date of the claim petition till its deposition came to be awarded in favour of the claimants and against the owner-insured (Amar Jeet Singh) (for short "the impugned award").

2. The owners-insured and the driver of the offending vehicle have not questioned the impugned award on any count, thus, has attained finality so far it relates to them.

3. The claimants have questioned the impugned award on the ground of adequacy of compensation.

4. Thus, the only question to be determined in this appeal is whether the amount awarded is inadequate or otherwise?

5. The claimants invoked the jurisdiction of the Tribunal for grant of compensation on the grounds taken in the memo of claim petition, was resisted by the respondents and the following issues came to be framed by the Tribunal:

"1. Whether the death of Zahool Ali took place in an accident which was the result of rash and negligent driving of Tractor No. HR-01D-2996 by respondent No. 3, as alleged? OPP

2. If issue No. 1 is proved, to what amount of compensation the petitioners are entitled to and from whom? OPP

3. Whether the petition is not maintainable? OPR

4. Relief."

6. Parties have led evidence.

7. The Tribunal, after scanning the evidence, oral as well as documentary, awarded compensation to the tune of RS. 1,42,000/-and saddled the owner-insured Amar Jeet Singh with liability.

Issues No. 1 and 3:

8. The owners-insured and the driver of the offending vehicle have not questioned the findings returned by the Tribunal on issues No. 1 and 3. However, I have gone through the impugned award and am of the considered view that the Tribunal has rightly decided issues No. 1 and 3 in favour of the claimants and against the respondents. Thus, the findings returned by the Tribunal on issues No. 1 and 3 are upheld.

Issue No. 2:

9. The amount awarded by the Tribunal, in terms of the impugned award, on the face of it, is meager, for the following reasons:

10. Admittedly, the deceased was 22 years of age at the time of the accident and was bachelor. Thus, by guess work, even if he be treated as a labourer, it can be safely said and held that he would have been earning not less than RS. 4,000/-per month. 50% was to be deducted towards his personal expenses in terms of the Second Schedule appended with the Motor Vehicles Act, 1988 (for short "the MV Act") read with the ratio laid down by the Apex Court in the case titled as Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another, reported in AIR 2009 SC 3104, and upheld by a larger Bench of the Apex Court in the case titled as Reshma Kumari and others v. Madan Mohan and another, reported in 2013 AIR SCW 3120.

11. Having said so, it can be safely said and held that the claimants have lost their source of dependency/income to the tune of RS. 2,000/-per month.

12. Multiplier of "15" is to be applied in view of Sarla Verma's case (supra), upheld by a larger Bench of the Apex Court in Reshma Kumari's case (supra)

read with Munna Lal Jain and another v. Vipin Kumar Sharma and others, reported in 2015 AIR SCW 3105.

13. Accordingly, the claimants are held entitled to compensation to the tune of RS. 2,000/-x 12 x 15 = RS. 3,60,000/-with interest as awarded by the Tribunal.

14. Having said so, the appeal is allowed and the impugned award is modified, as indicated herein above.

15. Owner-insured Amar Jeet Singh is directed to deposit the enhanced awarded amount before the Registry of this Court or before the Tribunal within eight weeks. On deposition, the same be released in favour of the claimants strictly as per the terms and conditions contained in the impugned award through payee's account cheque or by depositing the same to their respective bank accounts.

16. Send down the record after placing copy of the judgment on Tribunal's file.