

(2013) 12 SHI CK 0001
In the High Court Of Himachal Pradesh
Case No : FAO No. 301 of 2006

Smt. Premwati and Others	Vs	APPELLANT
Shri Manoj Sharma and Others		RESPONDENT

Date of Decision : 20-12-2013

Acts Referred:

Citation : (2013) 12 SHI CK 0001

Hon'ble Judges : Mansoor Ahmad Mir, Acting C.J.

Bench : Single Bench

Advocate : Dalip K. Sharma, for the Appellant; B.C. Verma, Advocate for Respondents No. 1 and 2 and Mr. J.L. Kashyap, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mansoor Ahmad Mir, Actg. C.J.

1. This appeal is outcome of the motor accident claim made by the appellants-claimants before the Motor Accident Claims Tribunal-II, Solan, H.P. (hereinafter referred to as "the Tribunal") in MAC Petition No. 2-S/2 of 2005, titled as Smt. Premwati & others versus Shri Manoj Sharma & others, whereby compensation to the tune of Rs. 2,01,500/- was granted in favour of the claimants-appellants alongwith interest @ 7.5 % per annum from the date of filing of the claim petition till its realization (hereinafter referred to as "the impugned award") on the grounds taken in the memo of appeal.

Brief facts:

It is averred by the appellants-claimants that their bread earner, namely Shri Ganga Ram, became the victim of vehicular accident, which was allegedly caused by the driver, namely Shri Manoj Sharma, while driving the offending vehicle bearing registration No. HP-14 A-1349 on 8th December, 2004, at about 7.50 P.M. near District Courts Road, Solan. Deceased-Ganga Ram sustained multiple simple and grievous injuries and succumbed to the injuries. The claimants-appellants filed claim petition for grant of compensation to the tune of Rs.

5,00,000/- as per the break-ups given in the claim petition.

2. The insured-owner, driver and the insurer-Insurance Company, i.e. the respondents herein, contested the claim petition. The Tribunal, after examining the pleadings and documents on record, framed the following issues:

1. Whether the accident and consequent death of deceased Ganga Ram was attributed to rash and negligent driving of motor cycle No. HP-14 A-1349 by the respondent No. 1 Sh. Manoj Sharma, if so, its effects? ...OPP

2. Whether the petitioner is entitled to compensation. If so, to what extent and from whom? ...OPP

3. Whether the Motor Cycle in question bearing No. HP-14 A-1349 is not insured with the respondent No. 3 if so, its effect? ...OPR-3

4. Whether the respondent No. 1 was not having valid driving licence on the date of accident. If so, its effect? ...OPR-3

5. Relief.

3. The claimants examined witnesses in support of their claim. The driver and owner-insured have not led any evidence but have produced copies of registration certificate, driving licence and insurance policy exhibited as Ex. R-1 to R-3, respectively. The insurer-respondent No. 3 has not led any evidence. The Tribunal, after examining the entire record, decided all the issues in favour of the claimants-appellants and against the respondents and awarded Rs. 2,01,500/- as compensation with interest @ 7.5% per annum from the date of filing of the petition till its realization vide impugned award.

4. The owner-insured, driver and the insurer-Oriental Insurance Company have not questioned the impugned award on any ground. The claimants-appellants have questioned the impugned award on the ground of adequacy of compensation. Thus, the only issue, which is to be determined in this appeal, is whether the amount awarded is just and appropriate as per the mandate of Section 166 of the Motor Vehicles Act (hereinafter referred to as the "MV Act") read with other provisions contained in Chapter-XXII of the Act.

5. Thus, I deem it proper not to discuss issues No. 1, 3 and 4. However, I have gone through the impugned award, including findings qua issues No. 1, 3 and 4, having rightly decided.

Issue No. 2:

6. This issue relates to adequacy of compensation in terms of the mandate of Apex Court judgments read with the Schedule appended with the MV Act.

7. The multiplier method is the best method for assessing and granting the compensation. The Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, has laid down the factors, fetter and the guidelines how to grant compensation, what should be the multiplier applicable

and what should be the deduction, while keeping in view the relation and status of the claimants.

8. Sarla Verma's case supra has come up for consideration before a two-Judge Bench of the Apex Court and the same was referred to the larger Bench. The larger Bench considered the reference in the case titled as Reshma Kumari and Others Vs. Madan Mohan and Another, and held that the judgment in Sarla Verma's case holds the field.

9. While going through Sarla Verma's judgment, the multiplier prescribed and the age of the deceased, i.e. 52 years, the multiplier applicable is 11, but after making deductions, the appropriate multiplier is 10. The Tribunal has fallen in error in applying the multiplier of 8.

10. Keeping in view the facts of the case, the income of the deceased and loss of dependency is correctly assessed.

11. I deem it proper to apply multiplier of 10. Accordingly, it is held that the claimants-appellants are entitled to compensation to the tune of Rs. 2,49,500/- { Rs. 2,01,500/- + Rs. 48,000/- (Rs. 24,000/- x 2)} with interest @ 7.5 % per annum from the date of filing of the claim petition till its realization.

12. At this stage, learned counsel for the appellant stated at the Bar that the Insurance Company has already deposited Rs. 2,01,500/- with interest before the Tribunal. Thus, the insurer-Insurance Company has to deposit Rs. 48,000/- with 7.5% interest, (i.e. the enhanced amount), from the date of the claim petition till its realization, within eight weeks before the Tribunal. On deposition of the same, the Tribunal is directed to release the same in favour of the claimants strictly as per the terms and conditions contained in the impugned award after proper identification. The impugned award is, accordingly, modified and the appeal stands disposed of.