
(2016) 10 RAJ CK 0079

In the Rajasthan High Court

Case No : Civil Misc. Appeal No. 4760 of 2015

The New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Shakuntla Kanwar

RESPONDENT

Date of Decision : 05-10-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 149, Section 166, Section 173

Citation : (2017) 1 WLN 303

Hon'ble Judges : Mr. Mahesh Chandra Sharma, J.

Bench : Single Bench

Advocate : Mr. N.L. Verma, Advocate, for the Insurance Company; Mr. Ashok Singh Shekhawat, Advocate, for the Claimant/s

Final Decision : Dismissed

Judgement

Mr. Mahesh Chandra Sharma, J. - For the reason mentioned in the application under section 5 of Limitation Act, the same is allowed and the delay in filing appeal no. 2896/2016 is condoned. Both these appeals have been filed against the impugned judgment and award passed by the Judge, MACT hence they are being heard and decided by this common judgment.

2. Notices were issued to the opposite parties. Reply to the claim petition/s was/were filed and the learned Tribunal framed the issues. After hearing all the parties, the learned Tribunal passed the impugned award.

3. Against the impugned award, the insurance company as well as claimants has/have preferred the present appeals for the relief as prayed for in them.

4. Learned counsel for the insurance company has contended that the learned Tribunal has failed to appreciate each and every aspect of the matter as also the evidence available on record. The award passed by the learned Tribunal is illegal, without jurisdiction and contrary to the facts of the case. Hence impugned award deserves to be set aside.

5. On the other hand, learned counsel for the claimant/s has opposed the submissions advanced on behalf of insurance company and requested for maintaining/enhancement of award.

6. I have heard learned counsel for the parties and perused the impugned judgment and award. I am in agreement with the findings arrived at by the learned Tribunal on issue no. 1 to 3 which read/s as under:

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1- ljk oekZ o vU; cuke nsgh V~kaliksVZ dkWjksjs"ku o vU; 2009 ,0lh0ts0 1298 ,l0lh0

2- U;w bafM;k ba";ksjsal dEiuh fy0 cuke Jherh "kkafr ikBd o vU; 2007 (4) Vh0,0lh0 17 ,l0lh0

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pwafd e`rd vfookfgr gSA ,slh fLFkfr esa e`rd ;fn thfor jgrk rks ekuuh; loksZPp U;k;ky; ds U;kf;d n`"Vkar ljk oekZ o vU; cuke nsgh V~kaliksVZ dkWjksjs"ku o vU; Vh0,0lh0 2009 2 ist 677 ,l0lh0 esa izfrikfnr fl)kUr dh ikyuk esa vk; 1@2 fgLlk Lo;a ij [kpZ djrkA ,slh fLFkfr esa vk; dk 1@2 fgLlk 32]400@& :i;s curk gS] ftls de fd;s tkus izkFkhZx.k dks e`rd dh e`R;q ls gksus okyh vk; dh gkfu 32]400@&:i;s okf"kZd fu/kkZfjr dh tkrh gSA

vkfJrksa dks gksus okyh vk; {kfr dh x.kuk gsrq xq.kd ds laca/k esa nksuksa i{kksa dh vksj ls vius&vius Ik{k dh iqf"V esa U;kf;d n`"Vkar is"kd fd;s x;s gSaA chek dEiuh dh vksj ls U;w & bafM;k ,a";ksjsla dEiuh fy0 cuke Jherh "kkafr ikBd o

vU; 2007 4 Vh0,0lh0 17 ,l0lh0 ds U;kf;d n`"Vkar ds vk/kkj ij ekrk&firk dh vk;q ds vk/kkj ij xq.kd yxk;s tkus dk fl)kUr izfrikfnr fd;k gS] tcfD nwljh vksj izkFkhZ } kjk ve`r Hkkuq "kSyh o vU; cuke us"kuy ba";ksjlsa dEiuh fyo vU; 2012 3 ,0lh0lh0Mh0 1137 ,l0lh0 dk U;kf;d n`"Vkar is"k fd;k] ftlesa ekuuh; loksZPp U;k;ky; us ;g fl)kUr vfHkfu/kkZfjr fd;k fd e`rd vfookfgr gksus ds laca/k esa xq.kd e`rd dh vk;q ds vk/kkj ij yxk;k tkosxk u fd mlds mij vkfJrksa dh vk;q ds vk/kkj ijA

vr% bl U;kf;d n`"Vkar esa izfrikfnr fl)kUr dh ikYuk esa e`rd dh vk;q 22 o"kZ gksus ls ekuuh; loksZPp U;k;ky; ds U;kf;d n`"Vkar lYk oekZ o vU; cuke nsGyh V~kaliksVZ dkWjksjs"ku o vU; Vh0,0lh0 2009 2 ist 677 ,l0lh0 esa izfrikfnr erkuqlkj izkFkhZx.k dks dqy vk; dh {kfrwfrZ gsrq 18 dk xq.kkad iz;ksx esa fy;k tkuk U;k;laxr izrhr gksrk gSA bl izdkj izkFkhZx.k dks gqbZ vk; dh gkf 32,400 X 18 = 5,83,200/- :i;s curh gSA

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nkg laLdkj ,oa izse okRIY; ds en esa ekuuh; loksZPp U;k;ky; }kj jkts"k cuke jktohjflag o vU;] 2013 ,e0,0lh0Mh0 ist&186 ,oa dyknsoh oxSjg cuke Hkxokunkl pkSgku ,e0,0lh0Mh0 2014 ,l0lh0 459 esa izfrikfnr fl)kUr ds vk/kkj ij izkFkhZx.k dks e`rd lqjsUnz izrkiflag ds nkg laLdkj O;; (Funeral Expences) ds fy, 25]000@&;i;s ,oa iq= lq[k dh oapuk gsrq 1]00]000@& :i;s dh jkf"k fnyk;k tkuk mfpr gksxkA

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ekuuh; loksZPp U;k;ky; us jfo cuke cnzhukjk;.k] (2011) ,0lh0lh0 704 (,l0lh0) ds U;kf;d n`"Vkar esa ?kVuk ls rhu eghus ckn ntZ dj;k;h x;h ,Q0vkbZ0vkj dks Hkh foyEc ds vk/kkj ij izkFkhZ ds dsl dks [kkfjt djus ds rdZ dks Lohdkj ugha fd;k gSA gLrxr izdj.k esa tgka ifjokj esa toku iq= 13-08-2012 dks nq?kZVuk esa e`R;q dks izkIr gks tkrk gS rks ogka 14 vxLr] 2012 dks Hkh mldh fjiksVZ fy[kk fn;k tkuk foyEc ugha ekuk tk ldrk] fo"ks" k :i ls tcfd lquhy us vius c;kuksa esa dFku fd;k gS fd iqfyl dks 100 uEcj ij VsyhQksu ls lwpuk ns nh FkhA blfy, ?kVuk ds rqjar ckn dh xbZ dk;Zokgh ls fdLh izdkj ls foyfEcr ,Q0vkbZvkj0 ugha ekuh tk ldrhA vr% vizkFkhZx.k }kjk mBk;h x;h vkifRr;ka izekf.kr ugha gksus ls Lohdkj fd;s tkus ;ksX; ugha gS vkSj fook|d la[;k&3 dk fu.kZ; vizkFkhZx.k ds fo:) fu.khZr fd;k tkrk gSA"

7. Looking to the facts and circumstances of the case and the findings arrived at by learned Tribunal as quoted herein above, the learned Tribunal is found to have

dealt with each and every aspect of the matter, and has rightly passed the impugned judgment and award. I am in unison with the findings arrived at by the learned Tribunal. Hence, I do not think it just and proper to interfere with the impugned award passed by the Tribunal, and thus the appeals having no force, are hereby dismissed after confirming the judgment and award passed by the learned Tribunal.