

(2015) 04 J&K CK 0002

In the Jammu And Kashmir High Court

Case No : CIMA No. 379 of 2013 and CMA No. 724 of 2013

Union of India

APPELLANT

Vs

Jia Lal

RESPONDENT

Date of Decision : 09-04-2015

Acts Referred:

Citation : (2015) 6 ALLMR 8

Hon'ble Judges : Mohammad Yaqoob Mir, J.

Bench : Single Bench

Advocate : Ravinder K. Gupta, CGSC, for the Appellant; M.P. Gupta, Advocate, for the Respondent

Judgement

Mohammad Yaqoob Mir, J.—Mr. Jia Lal-claimant (now deceased) on 09.07.2010 at Dogra Kud near GREF Camp suffered disablement

in view of road traffic accident caused by offending vehicle No. 02E70122X (Tipper) which was rashly and negligently driven by Pawan Chand.

Claim petition was filed by the claimant as against the appellants being respectively the owner and the driver of the offending vehicle. On the basis

of respective pleadings, issues were framed. Same are quoted hereinbelow:

1. Whether petitioner Jia Lal was permanently disabled as a result of a Road Traffic Accident, on 09.07.2010 at Dogra Kud, involving offending

vehicle No. 02E70122X (Tipper), driven by respondent No. 3 in a rash and negligent manner?

(OPP)

2. Whether the petitioner is entitled to compensation under M.V. Act for the disablement, from respondents?

(OPP)

3. Whether the respondents are not liable to pay any compensation to the petitioner?

(OPR)

4. Relief?

Vis-a-vis issue No. 1, cogent evidence has been produced before the Tribunal which on re-examination is found to have been properly

appreciated based on which learned Tribunal has rightly drawn the conclusion that the disablement of the claimant is up to 50 per cent in view of

injuries sustained in the road accident as had occurred on 09.07.2010 at Dogra Kud. The issue has been rightly decided in favour of the claimant.

2. Issue No. 2: While examining the evidence as is available on the records, the findings recorded by the Tribunal are in accordance with the law,

suffice it to say that claimant had been examined by the Board of Doctors on 26.05.2011 who have opined that the disability of 50 per cent

suffered by the claimant is directly related to the injuries suffered in the vehicular accident. Learned Tribunal has rightly placed reliance on the

judgment rendered by the hon'ble Apex Court in the case of Raj Kumar Vs. Ajay Kumar and Another, and another judgement Smt. Sarla Verma

and Others Vs. Delhi Transport Corporation and Another, . The amount of compensation as has been worked out after taking into account the age

of the claimant, his earning capacity then appropriate multiplier has been applied, the compensation amounting to Rs. 7,88,000/- has been worked

out on solid basis, so does not call for any interference.

3. Issue No. 3: The appellants have not been able before the Tribunal to discharge the onus, again in this Court while taking the evidence into

consideration; nothing appears there to persuade the court that the appellants are absolved from the liability of payment of compensation.

Therefore, issue has been rightly decided against the appellants.

4. Confronted with the afore-stated position, learned counsel for the appellants would submit that the interest awarded for future income is not

permissible from the date of filing of the claim petition, same is payable from the date of award. In support of this contention, learned counsel

placed reliance on the judgment rendered in the case Union of India and Ors. Vs. Ghulam Din 2013 (2) JKJ 238. In the reported judgment, the

interest was reduced from 7.5 per cent to 6 per cent payable from the date of

filing of the claim petition under all heads except for the amount

granted under the head future loss of income. Vis-a-vis that amount, interest has been directed to be paid from the date of award.

5. Applying the ratio of the judgment to the present case, instead interest @ 7.5% per annum, 6% is allowed vis-a-vis amount worked out on

account of loss of future income from the date of the award. Regarding rest of the amount from the date of institution of the claim petition. Finding

on issue No. 4 is modified accordingly.

6. Viewed thus, appeal succeeds partially to the extent of modification vis-a-vis findings on issue No. 4. The amount of compensation as stated to

have been deposited shall be released in accordance with law in favour of legal heirs of the claimant along with interest as may have accrued

thereon. Surplus amount if any shall be refunded to the insurance company. Appeal accordingly disposed of alongwith connected CMA. Record

along with the copy of this judgment be sent to the Tribunal for follow up action.