
United India Insurance Company Ltd Vs Bana Pati And Others

First Appeal From Order No. 275 Of 2018

Court: High Court Of Himachal Pradesh

Date of Decision: Jan. 8, 2019

Acts Referred:

Motor Vehicles Act, 1988 & Section 39

Citation: (2019) 1 AndhWR 446

Hon'ble Judges: Sureshwar Thakur, J

Bench: Single Bench

Advocate: Ashwani K. Sharma, Ishan Sharma, Mehar Chand, Jitender P. Ranote, Varun Rana

Final Decision: Allowed

Judgement

Sureshwar Thakur, J

1. The Insurer of the offending vehicle, has, instituted the instant appeal before this Court, where through, it, casts, a, challenge, upon, the award

pronounced by the learned Motor Accident Claims Tribunal-II, Kinnaur at Rampur Bushehar, H.P., upon, MAC Petition No. 0100069 of 2013, (i)

where under, compensation amount comprised, in, a sum of Rs.21,06, 312/- along with interest accrued thereon, at the rate of 7.5% per annum, and,

commencing from, the date of petition till realization thereof, stood, assessed, vis-a-vis, the claimants, and, the apposite indemnificatory liability thereof,

was, fastened upon the insurer/appellant herein.

2. The learned counsel appearing or the appellant/insurer, has contended (i) that the fastening of apposite indemnificatory liability, upon, insurer being

ill-founded, (ii) given the offending vehicle, hence not, in contemporaneity with the ill-fated occurrence, rather possessing a valid registration

certificate, and, fitness certificate, for, hence it being plied on the relevant road, (iii) thereupon, hence fundamental breach, of, the terms and conditions

of the insurance policy, obviously surging forth, (iv) and, conspicuously with the temporary registration certificate, as, issued by the licencing authority

concerned, vis-a-vis, the offending vehicle, being valid only upto 23.07.2010, and, whereafter the owner of the offending vehicle, not, ensuring hence

issuance qua the offending vehicle, a valid registration certificate, rather by the registering authority concerned

3. The afore espousal reared by the learned counsel for the appellant, before this Court, is, embedded, upon, Section 39 of the Motor Vehicles Act,

provisions whereof stand extracted hereinafter:-

“39. Necessity for registration. “No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be

driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the

vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner

(i) and, when apparently, the afore contention is well founded, upon, an imperative statutory necessity cast therein, upon, the owner to after expiry of

the temporary registration, number, as, assigned, vis-a-vis, the offending vehicle by the licencing authority concerned, to, hence, apply, for his/hers

being granted, a, permanent registration certificate, qua, the, apposite vehilce, (ii) and, with there being no endeavour in the afore regard, by the owner

of the offending vehicle, besides when in contemporaneity, vis-a-vis, the ill-fated mishap hence involving the offending vehicle, rather taking place,

hence, thereat the apposite temporary registration certificate, rather expiring, (iii) thereupon, the apt indemnificatory liability, vis-a-vis, the

compensation amount being not amenable for its being fastened, upon, the insurer.

5. Furthermore, the quantification, of damages, by the learned Tribunal, comprised, in a sum of Rs.1 lac, vis-a-vis, the claimants, (i) under the head

“loss of estate, and, quantification, of, compensation, borne in a sum of Rs.50,000/-, under, the head “funeral expense and cost of litigation,

as also quantification, of, compensation in a sum of Rs. One lac, under, the head “loss of consortium vis-a-vis the petitioner No.1, as well as

quantification, of compensation in a sum of Rs.One lac, under, the head “Loss of love and affection, and, further quantification of compensation

borne in a sum of Rs. One lac, under, the head “expectation of life, is, (a) in, conflict with the mandate of the Hon'ble Apex Court rendered in

National Insurance Co. Ltd. vs. Pranay Sethi and others, reported in 2017 ACJ 270.0 (b) wherein, it has been expostulated, that reasonable figures,

under conventional heads, namely, loss to estate, loss of consortium, and, funeral expenses being quantified only upto Rs.15,000/-, Rs.40,000/-, and

Rs.15,000/- respectively, (iii) and, with no expostulation occurring therein vis-a-vis the compensation amount(s), being awardable, to the off springs of

the deceased, especially under the heads, “loss of love and affection, and, expectation of life etc. hence reliefs in respect thereto, being

impermissibly granted. Consequently, the award of the learned tribunal is also interfered, to the extent aforesaid, of, its determining compensation,

under, the aforesaid heads, vis-a-vis, the claimants. Accordingly, in addition to the amount of Rs.16,56,312/-, the claimants, are, entitled under

conventional heads, namely, loss to estate, loss of consortium, and, funeral expenses, sums of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively, as

such, the total compensation, where to the petitioners/claimants are entitled comes to Rs.16,56,312/- +15,000/- +40,000/-15,000/-= Rs.17,26,312/-(Rs.

Seventy lakhs, twenty six thousand, three hundred and twelve only).

7. For the foregoing reasons, the appeal filed by the insurer is allowed, and, the impugned award, is, in the aforesaid manner, hence modified.

Accordingly, the claimants/petitioners, are, held entitled to a total compensation of Rs.17,26,312/-, along with pending and future interest @7.5 % per

annum, from, the date of petition till the date, of, deposit, of the compensation amount. However, the liability to defray the afore compensation amount

is fastened, upon, the owner of the offending vehicle i.e. Smt. Dev Patti, respondent No.5 herein, nonetheless, in consonance with the verdicts of the

Hon'ble Apex Court rendered in case titled as National Insurance Co. Ltd. v. Baljit Kaur, reported in (2004)2 SCC 1 as also in a case titled as

Deedappa v. National Insurance Co. Ltd., reported in (2008)1 SCC (Cri) 517, the insurer company shall initially satisfy the award, and, shall have the

right to, in accordance with law, hence recover, the, amount deposited by it, along with interest, from, the owner of the vehicle i.e. respondent No.5

herein. The amount of interim compensation, if awarded, be adjusted in the aforesaid compensation amount, at the time of final payment.

Compensation amount be apportioned, amongst the claimants, in the manner as ordered by the learned tribunal. All pending applications also stand

disposed of. Records be sent back forthwith.