

National Insurance Company Ltd. Vs Veena Devi and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 10, 2001

Acts Referred: Motor Vehicles Act, 1939 " Section 166

Citation: (2002) 2 RCR(Civil) 633

Hon'ble Judges: Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench: Division Bench

Advocate: Ravinder Arora, for the Appellant;

Final Decision: Dismissed

Judgement

Jawahar Lal Gupta, J.

Has the Motor Accident Claims Tribunal erred in granting a compensation of Rs. 3,84,000/- alongwith interest on

account of the death of Santosh Kumar, a young man of about 35 years ? This is the short question that arises for consideration in this appeal filed

by the insurer.

2. Admittedly, the deceased was working with M/s Dhillon Kool Drinks and Beverages Limited. After unloading the crates of bottles he was in the

process of getting into the truck. The driver started it. Santosh Kumar fell down and was run over. The widow and the minor children alongwith the

mother of deceased filed a claim petition.

3. The Tribunal after examination of the evidence, has found that the deceased was drawing a monthly salary of Rs. 2,500/-. He was about 35

years of age. The accident had occurred on account of the negligence of the driver of the vehicle. After applying a cut of Rs. 500/-, the monthly

dependency was fixed at Rs. 2,000/-. With a multiplier of "16", the compensation of Rs. 2,84,000/- has been awarded. The Tribunal has also held

the claimants entitled to the payment of interest at the rate of 9 percent.

4. The solitary contention raised by the learned counsel for the insurer is that the amount of Rs. 60,000/-, which had been paid by the employer to

the family of the deceased, should have been deducted from the compensation, as this was a compensation under the Workmen's Compensation

Act, 1923.

5. The contention cannot be accepted. It has been found as a fact that there was no claim made by the claimants under the Workmen"s

Compensation Act, 1923. the ex gratia payment by the employer to the bereaved family, cannot entitle the insurer to claim any deduction. Still

further, in the circumstances of the case, we find that the Tribunal has taken a conservative view regarding the income of the deceased. In fact, it is

difficult these days to find a perspn for a salary of Rs. 80/- per day.

6. No other point has been raised.

7. In view of the above, we find no ground to interfere.

8. The appeal is, consequently, dismissed in limine.

Sd/- Ashutosh Mohunta, J.