
(2016) AAC 459 : (2016) ILRHP 167

High Court of Himachal Pradesh

Case No: FAO No. 229 of 2009

Rikhi Ram & others

APPELLANT

Vs

Yogesh Kumar & others

RESPONDENT

Date of Decision: Jan. 1, 2016

Acts Referred:

Motor Vehicles Act, 1988 " Section 168

Citation: (2016) AAC 459 : (2016) ILRHP 167

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

Bench: Single Bench

Advocate: Jagdish Thakur, Advocate, for the Respondent

Final Decision: Disposed Off

Judgement

Mansoor Ahmad Mir, C.J. - This appeal is directed against award dated 23rd December, 2008, made by the Motor Accident Claims Tribunal-II,

Solan, H.P. (hereinafter referred to as "the Tribunal") in Petition No. 2-S/2 of 2008, titled Rikhi Ram and others v. Yogesh Kumar and others,

whereby compensation to the tune of RS. 2,62,000/- with interest @ 12% per annum from the date of filing of the claim petition till its realization,

was awarded in favour of the claimants-appellants herein and the insurer came to be saddled with liability (for short, "the impugned award").

2. The insurer, insured-owner and driver have not questioned the impugned award, on any count. Thus, it has attained finality, so far it relates to

them.

3. The claimants have questioned the impugned award on the ground of adequacy of compensation.

4. The only dispute in this appeal is-whether the amount awarded is inadequate. The answer is in the affirmative for the following reasons.

5. Admittedly, the deceased was 18 years of age at the time of accident, was a student and hope for parents.

6. The Tribunal has fallen in an error in taking the income of the deceased as RS. 3,000/- per month. By guess work, his monthly income can be taken as RS. 4,000/- per month.

7. The Tribunal has also fallen in an error in deducting â...“rd towards the personal expenses of the deceased because he was a bachelor and 50%

was to be deducted towards his personal expenses, in view the ratio laid down by the Apex Court in Sarla Verma (Smt.) and others v. Delhi

Transport Corporation and another, reported in AIR 2009 SC 3104, upheld by a larger Bench of the AIR 2009 SC 3104, Apex Court in a case

titled as Reshma Kumari and others v. Madan Mohan and another, reported in 2013 AIR (SCW) 3120 read with the judgment rendered by the

Apex Court in case titled as Munna Lal Jain and another v. Vipin Kumar Sharma and others, reported in 2015 AIR SCW 3105. Accordingly, it is

held that the claimants have lost source of dependency to the tune of RS. 2,000/- per month.

8. The Tribunal has also fallen in an error in applying the multiplier of 16". The multiplier of 14" is applicable in this case, as per the 2nd Schedule

appended to the Motor Vehicles Act read with the ratio laid down by the Apex Court in Sarla Verma"s, Reshma Kumari"s and Munna Lal Jain"s,

cases, supra.

9. Having said so, the claimants are held entitled to the amount of RS. 2,000/- x 12 = 24,000/- x 14 = RS. 3,36,000/-, under the head loss of

dependency".

10. Keeping in view the recent judgments of the Apex Court, a sum of Rs.10,000/- each, is also awarded under the heads loss of love and

affection", loss of estate" and funeral expenses", in favour of the claimants.

11. Accordingly, the claimants are held entitled to total compensation to the tune of RS. 3,36,000/- + RS. 30,000/- = RS. 3,66,000/- with interest

at the rate of 7.5% per annum from the date of filing of the claim petition.

12. The amount of compensation is enhanced and the impugned award is modified, as indicated above. The appeal is accordingly disposed of.

13. The insurer is directed to deposit the enhanced amount along with interest, within a period of eight weeks from today before the Registry. On

deposit, the Registry is directed to release the entire amount in favour of the claimants, strictly in terms of conditions contained in the impugned

award, through payees account cheque or by depositing in the account.

14. Send down the records after placing a copy of the judgment on the Tribunal's file.