

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

CIMA No.61/2008, MP No.120/2008

c/w

Cross Appeal(C) No.10/2008

Date of order:-11/08/2016

Oriental Insurance Company Ltd. Vs. Kiran Jamwal and others

Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge

Appearing counsel:

For the Appellant (s) : M/s.D.S.Chauhan & Meenakshi Salathia, Advocates.

For the respondent(s) : None.

- (a) Whether approved for reporting in
Digest/Law Journal-Net : Yes/No
- (b) Whether approved for reporting in
Press/Media : Yes/No
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- 1.This appeal is of the year 2008 filed by the Insurance Company challenging the award of Tribunal dated 10.01.2008.
- 2.It is a case of fatal accident. The accident in this case happened on 24.11.2005. One Raghu Raj Singh, aged 32 years died on account of fatal injuries sustained in the accident and consequent to that, wife, one minor daughter, one minor son, father and mother filed the claim petition.
- 3.The deceased was working as a Havaldar of 126 Inf. Bn. (TA) JAK Rifles C.O 56 APO, drawing monthly salary of Rs.12,000/- at the time of accident. The deceased while riding his Motor Cycle was hit by the offending vehicle bearing registration No.JK02 5199 insured with the appellant insurance company. The finding of negligence and

the liability of the Insurance Company to compensate the claimants is not seriously disputed. The claimants, however, filed cross appeal seeking enhancement.

4. The only plea is on quantum. The Tribunal based on the oral and documentary evidence and relying upon judgment passed by the Apex Court in *Sarla Dixit & anr. Vs. Balwant Yadav & others* determined the income of deceased as Rs.7413/- and thereafter applying the earlier procedure of drawing the average gross income determined the dependency as Rs.11,120/-. 1/3rd was deducted and the loss of pecuniary benefits to the claimants worked out at Rs.7413 X 12 = Rs.88,956/-. The Tribunal adopted Multiplier of 15 because of the age of deceased and granted Rs.13,34,340/- for loss of dependency and Rs.2000/- funeral expenses with the interest at the rate of 7%. The Tribunal granted total amount of Rs.13,36,340/-. However, the cross appeal filed by the claimants has to be considered keeping in mind that no amount has been granted for loss of consortium to the wife and loss of love and affection to the minor children and parents, which they will be otherwise entitled to in order to ensure that the compensation is just.

5. In such view of the matter, the appeal of the Insurance Company is **dismissed**.

6. The claimants cross appeal seeking enhancement of compensation is **allowed**. This Court is inclined to enhance the compensation on the following heads:

Loss of consortium to wife	Rs.50000/-
Loss of love and affection to two minor children	Rs.25,000/- each.
Loss of love and affection to parents	Rs.25000/- each.

The amounts awarded under the other heads by the Tribunal remains unaltered. The enhanced amount will carry interest at the rate awarded by the Tribunal from the date of the claim petition till realization.

(Ramalingam Sudhakar)
Judge

Jammu,
11.08.2016 *varun*