

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

FAO (MVA) No. 220 of 2010
Date of decision: 29th April, 2016

Smt. Kanta Devi and anotherAppellants.
Versus
Smt. Rita Devi and others ...Respondents

Coram:

The Hon'ble Mr. Justice Mansoor Ahmad Mir, Chief Justice.

Whether approved for reporting ?¹ Yes.

For the appellants:

Mr. J.L. Bhardwaj, Advocate.

For the respondents:

*Mr. B.S. Chauhan, Sr. Advocate
with Mr. Vaibhav Tanwar,
Advocate for respondents No. 1 to
3.*

*Mr. V.S. Chauhan, Advocate, for
respondent No.4.*

Mansoor Ahmad Mir, Chief Justice, (Oral)

This appeal is directed against the judgment and award dated 5.3.2010, made by the Motor Accident Claims Tribunal Shimla, H.P. in MACC No. 23-S/2 of 2008, titled *Smt. Kanta Devi and another versus Smt. Rita Devi and others*, for short “the Tribunal”, whereby compensation to the tune of Rs.4 lacs alongwith interest @ 9% per annum was awarded in favour of the claimants, hereinafter referred to as “the impugned award”, for short.

¹ *Whether the reporters of Local Papers may be allowed to see the judgment ?.*

2. Insurer, driver and owner have not questioned the impugned award on any ground. Thus, it has attained finality so far as it relates to them.

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

4. Claimants have averred in the claim petition that the monthly income of the deceased was Rs.3800/- and his age was 26 years at the time of the accident. The Tribunal has made the discussion from paras 19 to 21 of the impugned award and applied the multiplier of “15” which is just and appropriate multiplier, as per the law applicable.

5. The Tribunal, keeping all the facts in view has awarded Rs.4 lacs in favour of the claimants which, on the face of it, is just and appropriate, cannot be said to be inadequate in any way. Rather one half was to be deducted towards personal expenses of the deceased because he was a bachelor.

6. The learned counsel for the appellants argued that the insurer has to be saddled with the liability. I wonder how the claimants can advance such

arguments. The claimants have only to receive compensation whether from the owner or from the insurer as awarded by the Tribunal on facts and law applicable. This Court in FAO No. 412 of 2009 dated 4th December, 2015 titled *Sh. Sandeep Thakur versus Smt. Khema Sharma and others* has already discussed this issue. It is apt to reproduce para 4 of the said judgment herein.

“4. The learned counsel for the claimant has argued that the Tribunal has fallen in an error in determining issue No.3 and discharging the insurer and saddling the owner with the liability. I wonder how this argument can be advanced by the claimant whose concern is only to get compensation either from the owner or from the insurer. The claimant is not, in fact, aggrieved by the impugned award. The owner should have filed the appeal, if at all, he was aggrieved.”

7. The owner and the insurer have not questioned the impugned award. Thus, this question cannot be thrashed in this appeal. Viewed thus, the arguments advanced by the learned counsel for the appellants is devoid of any force, hence rejected.

8. Having said so, the impugned award is upheld and the appeal is dismissed alongwith pending application if any.

9. Send down the record forthwith, after placing a copy of this judgment.

April 29, 2016.
(cm Thakur)

(Mansoor Ahmad Mir)
Chief Justice.