

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO No. 305 of 2010
Decided on : 29.04.2016

Kashmiro Devi & anotherAppellants
Versus
Rang Lal & others ...Respondents

Coram:

The Hon'ble Mr. Justice Mansoor Ahmad Mir, Chief Justice
Whether approved for reporting? Yes.

For the Appellants : Mr. Ajay Sharma, Advocate.

For the respondents: Mr. J.R. Poswal, Advocate, for respondents No. 1 & 2.

Mr. G.C. Gupta, Senior Advocate with Ms. Meera Devi, Advocate, for respondent No. 3.

Mansoor Ahmad Mir, Chief Justice (oral)

Challenge in this appeal is to the award dated 26th May, 2010, passed by the Motor Accident Claims Tribunal, Una, H.P. (hereinafter referred to as 'the Tribunal'), in M.A.C. Petition No. 35 of 2007, whereby compensation to the tune of ₹2,25,000/- with interest @ 9% per annum from the date of filing of the claim petition, came to be awarded in favour of the claimants-appellants herein and the insurer-

respondent No. 3 herein was saddled with liability (hereinafter referred to as 'the impugned award').

2. The insurer, owner-insured 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. While examining paras 23 & 25 of the impugned award, one come to an inescapable conclusion that the award amount is too meager.

5. The Tribunal has awarded compensation to the tune of ₹2,25,000/-, as per the details given in para-15 of the impugned award, is non-speaking. The award amount is required to be enhanced for the following reasons.

6. Admittedly, deceased Vijay Kumar was 22 years of age at the time of accident, was working as a helper with M/s Hermkunt Earth Movers Private Limited and was earning ₹ 3,000/- per month and ₹ 30/- pay day as daily allowance, approximately ₹ 4500/- per month.

7. Keeping in view the ratio laid down by the Apex Court in **Sarla Verma (Smt.) and others versus Delhi Transport Corporation and another**, reported in **AIR 2009 SC 3104**, upheld by a larger Bench of the Apex Court in a case titled as **Reshma Kumari & others versus 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 & another versus Vipin Kumar Sharma & others**, reported in **2015 AIR SCW 3105**, $1/2^{\text{th}}$ was to be deducted towards the personal expenses of the deceased. Accordingly, it is held that the claimants have lost source of dependency to the tune of ₹ 2,000/- per month.

8. The multiplier of '15' is applicable in this case, in view of the 2nd Schedule appended to the Motor Vehicles Act read with the ratio laid down by the Apex Court in the cases, *supra*.

9. Thus, the claimants are held entitled to the compensation to the tune of ₹ 2,000/- x 12 = ₹24,000 x

15= ₹3,60,000/- with interest @ 9% per annum from the date of filing of the claim petition till realization.

10. The amount of compensation is enhanced and the impugned award is modified, as indicated above.

11. The insurer is directed to deposit the enhanced amount alongwith 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 the same in their accounts.

12. The appeal is accordingly disposed of.

13. Send down the record after placing copy of the judgment on Tribunal's file.

April 29, 2016
(hemlata)

(Mansoor Ahmad Mir),
Chief Justice