

In the High Court of Punjab and Haryana at Chandigarh

**FAO- 4420 of 2019 (O&M)
Date of Decision: 21.8.2019**

Magma HDI, General Insurance Company Limited

---Appellant

versus

Poonam and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vishal Aggarwal, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 1.5.2019 passed by the Motor Accidents Claims Tribunal, Sonipat (in short “the Tribunal”) whereby compensation has been assessed on account of death of Ashok Kumar in a motor vehicular accident that took place on 5.1.2018.

The Tribunal awarded Rs.51,39,570/-, in view of discussion and decision qua issue No. 2, reads thus:-

“Whether petitioners are entitled to any compensation, if so, how much amount and from whom? OPP”

The sole submission made by counsel for the appellant is that widow of deceased is admittedly entitle to benefit of compassionate assistance under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006 (in short “2006

Rules”) but the Tribunal has not deducted the entire amount payable under these Rules in the light of judgment of Hon'ble the Supreme Court **Reliance General Insurance Company Limited vs. Shashi Sharma and others 2016 (4) RCR (Civil) 569**, rather deducted 50% of the amount by relying upon judgment of this Court **Kamla Devi and others vs. Sahib Singh and others, FAO No. 3064 of 2013 decided on 30.11.2017**. It is argued that decision in **FAO No. 1268 of 2018 Liberty Videocon General Insurance Company Limited vs. Smt. Mausam and others** by this court, involving the question of deduction of financial assistance available under the “2006 Rules” has been challenged before Hon'ble the Supreme Court. Vide order dated 27.7.2018, notice of motion has been issued and stay has been granted qua enhanced amount of compensation. It is further submitted that since the matter in regard to deduction qua financial assistance under the “2006 Rules” is pending consideration before Hon'ble the Supreme Court, judgment passed by the Tribunal needs reconsideration.

I have heard counsel for the appellant and perused the paper book particularly the award passed by the Tribunal.

Counsel for the appellant is right in his submission that decision in **Liberty Videocon General Insurance Company Limited's case (supra)** has been challenged by the insurance company before Hon'ble the Supreme Court in Special Leave to Appeal (Civil) No. 12335 of 2018 wherein interim stay has been granted by a Division Bench of Hon'ble the Supreme Court. The judgment passed by this Court in **Kamla Devi and others' case (supra)** was challenged by the Reliance General Insurance Company Limited before Hon'ble the Supreme Court in a Petition for Special Leave to Appeal (Civil) No. 5926 of 2018 and the same was

dismissed by a three Judge Bench on 14.3.2018. A relevant extract from the order passed by Hon'ble the Supreme Court, reads as follows:-

“Heard learned counsel for the petitioner and perused the record.

We do not find any ground to interfere with the impugned order. The special leave petition is, accordingly, dismissed. Pending applications, if any, are also stand disposed of.”

In view of the above, I find it difficult to accept contention of the appellant that the matter in question needs reconsideration merely because notice has been issued in Petition for Special Leave to Appeal No. 12335 of 2018 by Hon'ble the Supreme Court.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is dismissed in limine.

(Rekha Mittal)
Judge

21.8.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No