

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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FAO-3528-2022 (O&M)
Date of decision: 12.09.2022

SHRIRAM General Insurance Company LimitedAppellant

Versus

Lalita Kumari Khang and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjeev Kodan, Advocate for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been preferred by the insurance company to challenge the award dated 08.04.2022 passed by learned Motor Accidents Claims Tribunal, Ambala (for short, 'the Tribunal') vide which the following compensation was awarded to the respondents/claimants, who are citizens of Nepal, on account of death of Inardev Khang (hereinafter called as 'deceased'):-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.9,500/-
2.	Future Prospects (40%)	Rs.3,800/-
3.	Monthly income after adding future prospects	Rs.13,300/-
4.	Deduction towards personal expenses (1/3rd)	Rs.4,433/-
5.	Loss of dependency	Rs.13,300/- (-) Rs.4,433/- = Rs.8,867/-
6.	Total loss of dependency after applying multiplier of 16	Rs.8,867 x 12 x 16 = Rs.17,02,464/-
7.	Last rites and transportation expenses	Rs.15,000/-
8.	Loss of estate	Rs.15,000/-
9.	Loss of consortium to widow of the deceased	Rs.40,000/-
10.	Total compensation	Rs.17,72,464/-

Learned counsel for the appellant submits that the learned

Tribunal gravely erred while passing the impugned award as no documentary evidence was placed on record by the claimants to prove their Indian citizenship and thus, in the absence of the same, their status being that of illegal migrants as per Illegal Migrants Act, 1983, they were not entitled to the compensation which was erroneously awarded by the learned Tribunal. He argued that on the face of it the Tribunal had travelled beyond its jurisdiction to entertain the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the original Act'). Learned counsel appearing for the insurance company in support of his submissions invited the attention of this Court to the Statement of Objects and Reasons of the Motor Vehicles (Amendment) Act, 2019 (for short, 'the amendment Act') and submitted that intent of the legislature was clear from the expression used i.e. “citizen facilitation” appearing therein which left no manner of doubt that the original Act was applicable only to the citizens of India. It was submitted that in the circumstances, foreign nationals were excluded from the application of the original Act and the compensation so awarded on account of death or other bodily injury suffered by a foreigner in India, in a motor vehicular accident could not be awarded.

I have heard learned counsel and perused the relevant material on record.

It would be relevant to reproduce the relevant excerpt of the Statement of Objects and Reasons of the amendment Act:-

“Statement of Objects and Reasons.-

XXXX XXXX XXXX
XXXX XXXX XXXX

4. *In view of the above, it has become necessary to*

*amend certain provisions of the said Act. The proposed Motor Vehicles (Amendment) Bill, 2019 seeks to address the issues relating to road safety, **citizen facilitation**, strengthening public transport, automation and computerisation.*

XXXX XXXX XXXX”

This Court is unable to accept the submissions made by learned counsel that the expression “citizen facilitation” would imply that the provisions of the amendment Act were applicable only to citizens of India.

To clarify the aforementioned position qua the expression “citizen facilitation” it would be relevant to reproduce point 5 of the Statement of Objects and Reasons of the amendment Act which is as follows:-

“Statement of Objects and Reasons.-

XXXX XXXX XXXX

XXXX XXXX XXXX

5. *The Motor Vehicles (Amendment) Bill, 2019, inter alia, provides for the following, namely:-*

(a) to facilitate grant of online learning licence;

(b) to replace the existing provisions of insurance with simplified provisions in order to provide expeditious help to accident victims and their families;

(c) to increase the time-limit for renewal of driving licence from one month to one year before and after the expiry date;

(d) to increase the period for renewal of transport licence from three years to five years;

(e) to enable the licensing authority to grant licence even to the differently abled persons;

(f) to enable the States to promote public transport, rural transport and last mile connectivity by relaxing any of the provisions of the Act pertaining to permits;

(g) to increase the fines and penalties for violation of provisions of the Act; and

(h) to make a provision for protection of Good Samaritans.

XXXX XXXX XXXX”

A conjoint reading of the above along with the expression “citizen facilitation” makes it abundantly clear that “citizen facilitation” implies providing services for grant of or renewal of licence, by the licensing authority to differently abled persons and other ancillary services. However, it would not cover or apply to claims of compensation under the original Act much less be construed in any manner to exclude foreigners from the purview of the provisions of the original Act.

The scheme of the original Act is very clear on the matter as it provides for payment of compensation to the victims of motor vehicular accidents, whether Indian citizens or foreigners. It would be most unreasonable and unjust to differentiate between an Indian citizen and a foreigner while deciding a claim petition under Section 166 of the original Act and thus deprive a victim/claimant of compensation on the basis of his nationality. Still further, the legislature has not used the term “citizen” in Chapter XII of the Act which deals with the Claims Tribunals but used the term “person”, which is clearly indicative of the fact that citizenship of India is not to be a pre-requisite for grant of compensation under the original Act.

As a sequel to the above, the instant appeal being devoid of any merit is dismissed.

12.09.2022

Vinay

Whether speaking/reasoned : Yes

Whether reportable : Yes

(MANJARI NEHRU KAUL)
JUDGE