

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CM-9468-CII-2023 &
CM-9469-CII-2023 &
CM-9470-CII_2023 in/&
FAO- 2625-2023 (O&M)
Date of Decision :24.05.2023

Megma HDI General Insurance Company
Limited

..Appellant

Versus

Parmilla and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Punit Jain, Advocate for the appellant.

Mr. Prashant Singh Chauhan, Advocate
for the respondents No.1 and 2.

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Harsimran Singh Sethi, J. (Oral)

CM-9468-CII-2023

The present application has been filed for condonation of delay
of 37 days in filing the present appeal.

Keeping in view the averments made in the application, which
are duly supported by an affidavit, the application is allowed. Delay of 37
days in filing the present appeal is condoned.

CM-9469-CII-2023

As prayed for, application is allowed.

FAO-2625-2023

Present appeal has been filed by the appellant-Insurance
Company challenging the award dated 12.12.2022 passed by the Motor

Accident Claims Tribunal, Rewari by which, compensation to the tune of Rs.14,37,800/- has been awarded in favour of the claimants to be apportioned as mentioned in paragraph-31 of the award.

Learned counsel for the appellant submits that age of the deceased was less than 15 years hence, keeping in view the judgment of the Hon'ble Supreme Court of India in *Civil Appeal No.4646-2009* titled as *Reshma Kumari and others vs. Madan Mohan and another* decided on 02.04.2013 wherein, it has been held the where the deceased is less than 15 years of age, his income should be assessed between Rs.30,000/- to Rs.50,000/- per annum, hence the assessment of the income in the present case @ Rs.9000/- per month is bad and contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in Reshma Kumari's case (supra).

Learned counsel for the respondents-claimants submits that in the present case, the deceased was above 15 years of age at the time of accident/death hence, the law settled in Reshma Kumari's case (supra) will not be applicable in the present case and the income has been assessed as per the minimum wages is perfectly valid and legal and the same cannot be treated as arbitrary so as to further reduce the income on the asking of the appellant-Insurance Company.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, learned counsel for the appellant concedes the fact that at the time of death, the deceased was above 15 years of age.

That being so, judgment in Reshma Kumari's case (supra), which is being relied upon so as to contend that income of the deceased should be taken

between Rs.30,000/- to Rs.50,000/- cannot be accepted and the said argument is accordingly rejected. Rather learned counsel for the appellant conceded that in case where deceased is more than 15 years of age, law settled in Reshma Kumari's case (supra) is not applicable.

At this stage, learned counsel for the appellant submits that the tribunal has not only granted interest on the compensation @ 6% per annum but has further mentioned that in case amount of compensation is not deposited within a period of two months of the passing of the award, the claimants will be entitled for interest @ 9% per annum, which is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.399-2004** tilted as **National Insurance Co. Limited vs. Keshav Bahadur and others** decided on 20.01.2004.

Learned counsel for the respondents raises no objection in case penal interest awarded by the tribunal is set aside and the amount of compensation is paid @ 6% per annum.

No other argument is raised.

Keeping in view the above, present first appeal is partly allowed. Compensation assessed and the interest granted by the tribunal is upheld. Award of penal interest to the effect that in case of non-depositing of compensation amount within a period of two months as directed by the tribunal, rate of interest will be @ 9%, is set aside. Appellant-Insurance Company is directed to deposit the amount of compensation within a period of two months along with interest @ 6% per annum so as to be released to the claimants.

Amount of Rs.25,000/- deposited by the appellant at the time of filing of the present appeal be released to them.

Application is disposed of.

May 24, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No