115

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2959-2022 (O&M)
Date of decision : 12.12.2025

NATIONAL INSURANCE CO. LTD ....Appellant

Versus

BANARSI DEVI AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Lalit Garg, Advocate
for the appellant.

None for the respondents.

PANKAJ JAIN, J. (ORAL)

Insurance Company is in appeal aggrieved of the award passed by MACT, Narnaul, dated 6th of April, 2022.

2. The deceased Satish Kumar, who lost his life in the motor-vehicular accident, was a government servant employed with Haryana Government.

3. State of Haryana in exercise of powers conferred under Article 309 of the Constitution of India has framed the rules namely "Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006". The same read as under:

> "No. G.S.R. 19/Const./Art. 309/2006.-In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India,

The Governor of Haryana hereby makes the following rules *to grant the compassionate assistance by way of ex-gratia financial assistance on compassionate grounds* to members of the family of a deceased Government employee *who dies while in service/missing Government employee*, namely:-

(emphasis supplied)

Rule 2 stipulates the objects of the Rules, namely, to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting from the loss of the bread-earner while in regular service by giving financial assistance. Rule 3 of the said Rules provides for eligibility to receive financial assistance under the Rules. As per Rule 4, the eligible family members are required to submit an application in Form A for compassionate financial assistance. Rule 5, is of some significance which provides for the extent of financial assistance. The same reads thus:

"5.(1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim.,-

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty- five years;

(b) for a period of twelve years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty-five years but had not attained the age of forty-eight years;

(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty-eight years.

(2) The family shall be eligible to receive family pension as per the normal rules only after the period during which he receives the financial assistance as above is completed.

(3) The family of a deceased Government employee who was in occupation of a Government residence would continue to retain the residence on payment of normal rent/license fee for a period of one year from the date of death of the employee.

(4) Within fifteen days from the date of death of a Government employee, an ex-gratia assistance of twenty five thousand rupees shall be provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner.

(5) House Rent Allowance shall not be a part of allowance for the purposes of calculation of assistance."

4. In the case of **Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others (2016)9 SCC 627**, Supreme Court held that the financial assistance received by the LRs of the deceased from the Government, needs to be factored in and is required to be deducted from the compensation paybale to the LRs in petition filed under the provisions of Motor Vehicles Act, 1988.

5. Ld. Cousnel for the appellant submits that the Tribunal erred in applying Rule 5(1)(c) of the Motor Accidents Claims Tribunal Rules, 2003, to the present case, whereas the relevant provision would be Rule 5(1)(b).

The said error has resulted an excess amount of Rs.29,11,437/- being awarded by the Tribunal.

6. In the considered opinion of this Court, the ratio of law laid down in ***Shashi Sharmsa's*** case (supra), stands further clarified in the case of **National Insurance Company Limited vs. Birender and others, 2020(1) RCR (Civil) 694,** wherein the Supreme Court observed as under:

> "xxxx The High Court, therefore, instead of providing for deduction of the amount receivable by the legal representatives of the deceased on this count (under the 2006 Rules), from the compensation amount, should have independently determined the compensation amount and ordered payment thereof subject to legal representatives of the deceased filing affidavit/declaration before the executing Court that they have not received nor would they claim any amount towards financial assistance under the 2006 Rules, so as to become entitled to withdraw the entire compensation amount."

7. In view thereof, this Court finds that the issue w.r.t. deduction under the relevant provision, is to be dealt by the Executing Court.

8. The present appeal is disposed off with liberty to the appellant to raise issue of deduction of compensation received under 2006 Rules before the Executing Court..

9. The Executing Court shall call for the affidavits from the LRs of the deceased w.r.t. payment received by them, under 2006 Rules.

10 The Executing Court shall thereafter release compensation awarded, after receiving concerned affidavits from the claimants w.r.t.

payment received from them under 2006 Rules, after deducting the same in terms of ratio of law laid down in ***Birender's*** case (supra).

11. Pending application, if any, shall also stands disposed off.

December 12, 2025 **(Pankaj Jain)**
Dpr **Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No