

The New India Assurance Company Ltd vs Satish Chandra Sharma on 23 February, 2022

Bench: Sanjiv Khanna, Bela M. Trivedi

@ SLP(C)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1579 2022
(@SLP(C) No(s) . 14350/2019)

THE NEW INDIA ASSURANCE COMPANY LTD

VERSUS

SATISH CHANDRA SHARMA & ANR.

O R D E R

Leave granted.

We have heard learned counsel for the parties. Learned counsel appearing for the first respondent fairly states that the said respondent had continued in government service even after his accident, and has retired on superannuation. Learned counsel, however, states that the first respondent had lost out on the encashment of his earned and medical leaves, due to the injuries suffered by him, a fact that has already been addressed by the Motor Accident Claims Tribunal (MACT). First respondent was also denied and deprived of certain allowances that were paid to him when he was in the CID department, viz., the intelligence allowance, special allowances and special pay allowance, as he was transferred from the CID Department to the Wireless Department on account of his injuries.

Further, the first respondent underwent an operation and an implant has been fixed on his spine which 13:14:14 IST Reason:

affects him physically. The first respondent, owing to the operation and related medical issues, has been deprived of post- retirement earning. Learned counsel has also drawn our attention to the fact that as per the certificate of disability, the said respondent has suffered 75% disability in the lower limbs. However, during the

course of the hearing, the learned counsel has accepted that the first respondent can move around, but sometimes he requires assistance.

In view of the accepted position that the first respondent had continued to work, we do not think the High Court was correct in awarding compensation of Rs.56,44,378/- (Rupees Fifty Six Lakhs Forty Four Thousand Three Hundred and Seventy Eight only) by applying the multiplier to the net salary payable to the first respondent. The first respondent has continued to earn the monthly salary he was earlier drawing, including increments, except some allowances given due to the nature of posting. The first respondent, at the time of the injury, was 56 years old and had about four years of service till his retirement. The High Court also failed to notice that the injury certificate did not relate to permanent disability in the entire body, and had certified 75% disability in the lower limbs. As noted above, the first respondent is not immobilized. He can perform and undertake daily chores without help and assistance.

The Motor Accident Claims Tribunal (MACT) had noticed all these pertinent facts and had awarded compensation under the following heads:-

1. On account of injuries caused, Rs. 1,50,000/-

pain, deprivation of amenities of life, shortening of long life, inconvenience, sadness disappointment, depression and mental and physical agony.

2. The inconvenience due to Rs. 1,50,000 injuries in carrying out day to day/routine work

3. Special expenditure on transport Rs. 50,000/-

4. Under Medical expenses Rs. 94,500/-

5. Expenses on medical attendant Rs. 9,500/-

and nutritious food during treatment in hospital.

6. Amount of earned leave. Rs. 1,57,000/-

7. For transport expenses to and Rs. 10,000/-

fro the Hospital
Total

Rs . 6,21,000/-

Keeping in view the aforesaid position, along with the facts that the first respondent had undergone an operation and an implant had been fixed on his vertebrae causing him physical pain, discomfort and possible decrease in lifespan, and that he though entitled to pension and retirement benefits,

has lost the opportunity to take up post-retirement employment, we deem it appropriate to enhance the compensation of Rs. 6,21,000/- (Rupees Six Lakhs and Twenty One Thousand Only) by a further amount of Rs. 3,79,000/- (Rupees Three Lakhs and Seventy Nine Thousand Only). In other words, the first respondent is entitled to receive total compensation of Rs. 10,00,000/- (Rupees Ten Lakh Only) in all.

The further compensation of Rs. 3,79,000/- (Rupees Three Lakh and Seventy Nine Thousand Only) would be paid within six weeks from today with interest @ 6 per cent per annum from the date of filing of the claim application.

The appeal is partly allowed and disposed of in the above terms. There is no order as to costs.

All pending applications stand disposed of.

..... J. [SANJIV KHANNA] J. [BELA M. TRIVEDI] NEW DELHI;

23RD FEBRUARY, 2022.

ITEM NO.7

COURT NO.14

SECTION XV

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s).

14350/2019

(Arising out of impugned final judgment and order dated 22-04-2019 in SBCMA No. 2218/2017 passed by the High Court of Judicature for Rajasthan at Jaipur) THE NEW INDIA ASSURANCE COMPANY LTD Petitioner(s) VERSUS SATISH CHANDRA SHARMA & ANR. Respondent(s) Date : 23-02-2022 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA HON'BLE MS. JUSTICE BELA M. TRIVEDI For Petitioner(s) Dr. Meera Agarwal, AOR Mr. Ramesh Chandra Mishra, Adv.

For Respondent(s) Mr. M. Khan, Adv.

Mr. Prateek Tiwari, Adv.

Mr. Ansar Ahmad Chaudhary, AOR Mr. Amit K. Nain, AOR Mr. Aditya Jain, AOR Ms. Neha Gyamlani, Adv.

Ms. Bhavya Golecha, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is partly allowed and disposed of in terms of the Signed Order.

All pending applications stand disposed of.

(SONIA BHASIN)
COURT MASTER (SH)

(RANJANA SHAILEY)
COURT MASTER (NSH)

[Signed Order is placed on the file]