

# Sbi General Insurance Co. Ltd vs Raj Kumar on 27 January, 2022

**Author: Sanjeev Sachdeva**

**Bench: Sanjeev Sachdeva**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ MAC.APP. 22/2022

SBI GENERAL INSURANCE CO. LTD

Through

Mr. Amit Kum

versus

RAJ KUMAR

Through

None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA  
ORDER

% 27.01.2022 CM. APPL. 4664/2022 (Exemption) Allowed, subject to all just exceptions. CM APPL. 4666/2022 (condonation of delay) The Supreme Court by its orders 23.03.2020, 27.04.2021 and 10.01.2022 in Suo Motu Writ Petition (Civil) No.3 of 2020 has suspended the period of limitation in view of the ongoing pandemic. Accordingly, there is no delay in filing the appeal.

The application is disposed of.

MAC.APP. 22/2022 & CM. APPL. 4665/2022 (stay)

1. The hearing was conducted through video conferencing.

2. Appellant impugns Award dated 05.08.2020 whereby the claim petition has been allowed and compensation awarded to the injured Digitally Signed SACHDEVA MAGGU MAC.APP. 22/2022 Signing Date:27.01.2022 1 Signing Date:28.01.2022 08:24:40 22:46 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

respondent no. 1.

3. Learned counsel for the appellant submits that the tribunal has erred in not appreciating that there was no loss of income sustained by the claimant for the reasons that the claimant was in Government service and continued to be in Government service without suffering any loss of promotional avenues. He relies on the decision of the Supreme Court in Raj Kumar Vs. Ajay Kumar 2011 1 SCC 343.

4. Learned counsel further submits that the tribunal has erred in awarding interest @ 9% per annum whereas the prevailing rate of interest on fixed deposit is about 6% per annum.

5. Issue Notice.

6. Since there is no dispute with regard to the liability of the insurance company, vis-à-vis, driver and owner of the offending vehicle, service of respondent no. 2 and 3 is dispensed with.

7. Notice shall issue to respondent no. 1, returnable on 11.10.2022.

8. Digital copy of tribunal's record be requisitioned.

9. In the meantime appellant shall deposit the entire awarded amount with the tribunal.

10. Reference may be had to the judgment of the coordinate bench of this Court in Raj Kumar Malik Vs. United India Insurance Company & Ors. 2017 SCC Online 11076 wherein this Court in Digitally Signed SACHDEVA MAGGU MAC.APP. 22/2022 Signing Date:27.01.2022 2 Signing Date:28.01.2022 08:24:40 22:46 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

similar circumstances has held that even though there may not be an immediate loss of income as the injured has continued in Government service, however, post retirement there would be loss of earning capacity as the injured may not be able to get employment on account of injuries sustained and accordingly a multiplier of 9 was applied as the retirement age was 60 in that case.

11. In the present case also, the retirement age is stated to be 60 and as held in Raj Kumar Malik, the claimant would have earned 50% of the last emoluments as the service is pensionable.

12. Accordingly, it is directed that out of the amount deposited, tribunal shall disburse 100% of the amount awarded under the head of medical expenses, pain and suffering, conveyance and special diet and loss of amenities of life. However, it shall disburse only 25% of the amount awarded under the head of compensation towards future loss of income as per the scheme of disbursal.

13. The tribunal shall disburse the amount by taking the rate of interest at 6% per annum. Remaining amount shall be kept in an interest bearing fixed deposit.

14. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J JANUARY 27, 2022 'rs' Digitally Signed SACHDEVA MAGGU MAC.APP. 22/2022 Signing Date:27.01.2022 3 Signing Date:28.01.2022 08:24:40 22:46 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.