

R.L. Gupta And Ors. vs Jupiter General Insurance Company And ... on 15 November, 1989

Equivalent citations: 1990ACJ280, (1990)1SCC356, AIRONLINE 1989 SC 29, 2012 (1) SCC 593, 1990 (1) SCC 356, 1990 ALL CJ 370, (1990) 1 TAC 592, 1990 CRI LR (SC&MP) 571.2, (1990) 1 ACJ 280, 1990 SCC (CRI) 140, 1990 CRILR(SC&MP) 571, 2012 (1) SCC (CRI) 405

Bench: K. Ramaswamy, Ranganath Misra

ORDER

1. Special leave is granted.

2. Heard learned Counsel for the parties. Claim was led under the provisions of Section 110-A of the Motor Vehicles Act to compensation. There were five deaths and injury to one person arising out of one accident. We find from the assessment of compensation made by the Tribunal that in regard to death of two persons being Ram Joti and Suresh has been determined at Rs. 8,000/- each while for others a fair compensation has been given. But relying upon the provisions of the Motor Vehicles Act, liability of the insurer had been fixed at Rs. 50,000/-. The question as to why the low compensation had been given in regard to two of the persons was neither raised nor examined in the High Court, possibly on account of the fact that while contending for the liability of the insurer to satisfy the award no specific dispute over the quantum of compensation in regard to the two deaths had been raised. Interest was granted on the compensation amount at 6 per cent from the date of the claim.

3. Two questions, therefore, have been raised.

(1) As to the claim of compensation in respect of the death of the two persons as determined at the rate of Rs. 8,000/- each.

(2) The rate of interest on the compensation.

4. There have been several orders of this Court in recent cases in compensation disputes where the court has awarded 12 per cent interest. There is no dispute that interest is payable from the date of the claim. We are prepared to raise the rate of interest from 6 per cent to 12 per cent from the date of claim till payment.

5. In regard to the amount of compensation of Rs. 8,000/-, counsel for the insurer contends that in the absence of a specific claim laid in the High Court about the low compensation, this question should not be permitted to be mooted in appeal by special leave. Ordinarily, the legal position is what counsel contends. But in the peculiar facts of the case we do not think technicality of law

should be permitted to stand in the way and a fair compensation should be paid in respect of the two deaths. We assess compensation for each of them at Rs. 20,000/- in the absence of any specific evidence. This is keeping in view the quantum of no fault liability now provided by the statute prospectively. The net result is that appeal is allowed in part and following two reliefs are granted:

(1) Compensations in regard to two persons for whom Rs. 8,000/- each shall be enhanced to Rs. 20,000/-; and (2) Interest shall be paid at the rate of 12 per cent from the date of application till the date of payment. The Tribunal shall make appropriate adjustments taking into consideration the amounts which have already been paid. The insurer's liability shall be Rs. 50,000/- per every death in view of the decision of this Court but in the two cases stated above the amounts shall be confined to Rs. 20,000/- each. Insurer's liability for interest shall be in respect of its statutory liability.

6. The appeal is accordingly disposed of.