



Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No.....of 2025
[@Special Leave Petition (Civil) No.9515 of 2020]

NEW INDIA ASSURANCE CO. LTD.

...APPELLANT

VERSUS

SMT. SUNITA SHARMA AND ORS.

...RESPONDENTS

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. Leave granted.
2. The sole question arising in the above case is as to how the compensation payable under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006¹ has to

¹ For brevity 'Rules of 2006'

be dealt with in computing the compensation under the Motor Vehicles Act, 1988.

3. We notice that in the present case, the High Court has deducted only 50% of the compensation under the Rules of 2006 from the amounts awarded in the Claim Petition under the Motor Vehicles Act. The learned counsel for the Insurance Company points out that despite noticing the decision in ***Reliance General Insurance Co. Ltd. v. Shashi Sharma***², the High Court has ignored the dictum and followed the Judgment of that High Court in ***Kamla Devi v. Sahib Singh & Ors.***³

4. In the present case though, notice has been served on respondent, none appears. The learned counsel for the Insurance Company submits that the question arising is no longer *res-integra*, but the High Court is awarding compensation without deducting the compensation

² (2016) 9 SCC 627

³ FAO No.3064 of 2013 and others – decided on 30.11.2017

payable under the Rules of 2006. Reliance is also placed on the subsequent decision of this Court in ***National Insurance Company Limited v. Birender and Others***⁴. It is undertaken that there will be no refund claimed from the respondents-claimants who have been awarded compensation by the High Court after deducting 50% of the compensation awarded under the Rules of 2006.

5. In ***Shashi Sharma***², a three Judge Bench held so in paragraph 26:

“26. ...The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependents/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same

⁴ 2020 SCC Online SC 28

time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to “pay and other allowances” that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of “loss of income”. So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the accident can still be pursued by them in their claim under the Act of 1988. For, it is not covered by the Rules of 2006.

Similarly, other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependents of the deceased Government employee, applying the principle expounded in Helen C. Rebello v. Maharashtra SRTC, (1999) 1 SCC 90 and United India Insurance Co. Ltd. V. Patricia Jean Mahanan, (2002) 6 SCC 281 cases.”

6. In **Birender**⁴ also while enhancing the award amounts the payment was made subject to the amounts received under the rules of 2006, in the following manner:

“However, this amount alongwith interest at the rate of 9% per annum from the date of filing of the claim petition till payment, will be payable subject to the outcome of the application made by the respondent Nos.1 and 2 to the competent

authority for grant of financial assistance under the Rules of 2006. If that application is allowed and the amount becomes payable towards financial assistance under the said Rules to the specified legal representatives of the deceased, commensurate amount will have to be deducted from the compensation amount along with interest component thereon. The respondent Nos.1 and 2, therefore, can be permitted to withdraw the compensation amount only upon filing of an affidavit-cum-declaration before the executing Court that they have not received nor would claim any amount towards financial assistance under the Rules of 2006 and if already received or to be received in future on that account, the amount so received will be disclosed to the executing Court, which will have to be deducted from the compensation amount determined in terms of this order”.

7. The appeal is allowed setting aside the judgment impugned to the extent it deducted only 50% of the compensation payable under the Rules of 2006 but also

making it clear that if the amounts are already paid to the respondents, no recovery shall be made.

8. We cannot but observe that we are surprised that the High Court despite noticing a judgment of this Court, in the impugned judgment, failed to follow the dictum and followed a contrary judgment of the High Court itself; which is per-se in violation of Article 141 of the Constitution of India.

9. Pending applications, if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
APRIL 8, 2025.**