



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 4<sup>th</sup> DAY OF APRIL, 2022

BEFORE

HON'BLE MR. JUSTICE AJAY MOHAN GOEL

FIRST APPEAL FROM ORDER No. 281 OF 2021

Between:-

ORIENTAL INSURANCE COMPANY  
LTD. DIVISIONAL OFFICE, MYTHE  
ESTATE, KAITHU, SHIMLA-3  
THROUGH ITS SENIOR DIVISIONAL  
MANAGER.

.....APPELLANT

(BY DR. LALIT KUMAR SHARMA, ADVOCATE)

AND

1. SMT. MINAKSHI DEVI W/O LATE  
SH. PARDEEP KUMAR.
2. SH. CHAMAN LAL S/O SH.  
HOSHIAR SINGH,
3. SH. HOSHIAR SINGH S/O DAYA  
RAM,
4. KUMARI DIKSHA CHANDEL  
DAUGHTER OF SH. CHAMAN LAL,  
ALL RESIDENTS OF VILLAGE  
PUKHSRU-BANGARH, TEHSIL  
AND DISTRICT UNA, H.P.
5. KULDEEP KUMAR S/O SH. KAUR  
CHAND RESIDENT OF VILLAGE  
RASINKHA, P.O. SEHORPAIN,  
TEHSIL JAWALA MUKHI JI, DISTT.  
KANGRA, H.P. (DRIVER OF CAR  
NO. PB-1A-8638)
6. VIJAY KUMAR CHAUDHARY SON  
OF SHIV DAYAL CHAUDHARY,  
1834/3 HOUSEFED COMPLEX  
NEAR PCA STADIUM, PHASE-10,  
MOHALI (PB) (OWNER OF CAR  
NO. PB-1A-8638)

.....RESPONDENTS

(BY MR. DHEERAJ K. VASHISHT, ADVOCATE  
FOR RESPONDENT NO. 1;)

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*Whether approved for reporting:   **No***

This petition coming on for orders this day, the Court delivered the following:-

### **J U D G E M E N T**

By way of this appeal, the appellant-Insurance Company assailed the award passed by the Court of learned Motor Accident Claims Tribunal, Una, in MAC petition No. 73 of 2016, titled as Meenakshi Devi and others vs. Kuldeep Kumar and others, dated 24.07.2018, in terms whereof the claim petition filed by the claimants therein stood decided by learned Tribunal in the following terms:-

*“As a result of my findings on all the issues above, the instant claim petition is partly allowed. The petitioner No. 1 is awarded compensation of Rs.24,38,000/- alongwith interest at the rate of 9% per annum from the date of filing of this petition i.e. 22.07.2016 till payment, to be paid by respondent No. 3. The amount of interim compensation, if paid, earlier under Section 140 of the M.V. Act shall be adjusted in the final Award. On deposit, 50% amount is ordered to be released in favour*

of petitioner No. 1 through her bank account and remaining amount be invested in FDR for three years with some nationalized bank.”

2. During the hearing of the present appeal, on 30.03.2022, the following order was passed by the Court:-

*“On the request of learned Counsel for the parties, the appeal was taken up for final consideration today itself.*

*The appellant Insurance Company is aggrieved by the award, which has been passed by learned Motor Accident Claims Tribunal, in MAC Petition No. 73 of 2016, titled as Meenakshi Devi and others vs. Kuldeep Kumar and others, dated 24.07.2018, vide which, the claim petition was partly allowed by awarding petitioner No. 1 therein, compensation to the tune of Rs.24,38,000/- alongwith interest @ 9% per annum from the date of filing of the petition, i.e. 22.07.2016, till payment.*

*Having carefully perused the award passed by learned Court below and testing it on the strength of judgments passed by Hon’ble Supreme Court in Sarla Verma (Smt) and others versus Delhi Transport Corporation and another (2009) 6 Supreme Court Cases 121; National Insurance Company Limited versus Pranay Sethi and Others (2017) 16 Supreme Court Cases 680; and New India Assurance Company*

Limited versus Somwati and others and other connected matters (2020) 9 Supreme Court Cases 644, this Court is of the considered view that it will be in the interest of justice, in case, the parties agree that a lumpsum compensation to the tune of Rs.30.00 Lac is paid by the appellant-Insurance Company to the respondent-claimant, which amount shall be inclusive of everything.

Learned Counsel for the parties submit that the case be taken up on 04.04.2022, to enable them to have appropriate instructions.”

3. Today, Dr. Lalit Kumar Sharma, learned Counsel for the appellant-Insurance Company and Mr. Dheeraj K. Vashisht, learned Counsel for respondent No. 1/claimant, submitted on the basis of instructions from the respective parties, who are being represented by them that the appellant-Insurance Company and the respondent/Claimant agree that the present appeal be disposed of by modifying the award passed by learned Tribunal to the effect that lumpsum compensation to the tune of Rs.30.00 Lac is acceptable to be paid by the Insurance Company and the same is acceptable to be received by respondent No. 1/claimant as full and final settlement inclusive of everything.

4. Accordingly, this appeal is disposed of by ordering that as agreed in terms of what was observed by this Court vide order

dated 30.03.2022 the appellant-Insurance Company shall pay an amount of Rs.30.00 Lac as full and final settlement to respondent No. 1/claimant, which payment shall be inclusive of everything and the award passed by learned Tribunal stands modified to this extent.

5. As prayed for, it is ordered that out of the award amount, which has been deposited by the appellant, an amount of Rs.30.00 Lac as full and final settlement be released in favour of respondent No. 1 and balance amount with up-to-date interest, be refunded to the appellant-Insurance Company. Bank details of the appellant as well as respondent No. 1 be supplied to the Registry by learned Counsel for the parties within a period of one week.

The appeal stands disposed of in above terms, so also pending miscellaneous application(s), if any.

**(Ajay Mohan Goel)**  
**Judge**

April 04, 2022  
(narendar)