IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.2937 of 1999 (O&M).
Date of Decision: 31.08.2015.

National Insurance Company Ltd. ....Appellant.

VERSUS

Smt. Shimla Devi and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. L.M. Suri, Senior Advocate with
Mr. Neeraj Khanna, Advocate for the appellant.

Mr. Rajender Kumar, Advocate for
Mr. P.S. Dhaliwal, Advocate for respondents No.1 to 8.

Service of respondent No.9 was dispensed with.

Mr. A.S. Sivia, Advocate for
Mr. Kulbir Sekhon, Advocate for respondent No.10.

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<u>SNEH PRASHAR, J.</u>

This was an appeal directed against an award dated 10.06.1999 passed by Motor Accident Claims Tribunal, Hisar (for short, "the tribunal") in MACT case No.149 of 1996 titled "Smt. Shimla Devi and others vs. Bakshish Singh and others". The prayer of the appellant is for setting aside the award dated 10.06.1999.

The relevant facts are that on 07.10.1996 at about 3:30 p.m. Suresh Kumar (since deceased) was coming from Jind to Narnaund on his motorcycle and was being followed by Ramkesh and Dharambir on another motorcycle. When they reached near bus stand of Bhaini Amirpur, a truck bearing registration No.EB-12B-1417 (hereinafter referred to as the "offending truck") being driven in a rash and negligent manner and in high speed, came from the opposite direction and struck into the motorcycle of Suresh Kumar by going on the wrong side of the road. As a result of accident, Suresh Kumar sustained multiple injuries. He was taken to Medical College Hospital, Rohtak where he succumbed to the injuries on 08.10.1996.

Claimants No.1 to 8 being widow, minor daughters, minor sons and parents of deceased Suresh Kumar filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short, "the Act of 1988") claiming compensation for the pecuniary and unpecuniary loss suffered by them on account of death of Shri Suresh Kumar.

Respondents No.1 and 2, driver and owner of the offending truck did not appear to contest the petition. Appellant-insurer of the offending truck filed written statement denying the occurrence of accident, the claim put forth by the claimants and its liability to indemnity the insured.

On the pleadings of the parties, issues were settled and considering the evidence adduced by the claimants and appellant-insurance company the impugned award allowing compensation to the tune of

Rs.6,12,000/- was passed in favour of the claimants. Appellant-insurance company and respondents No.1 and 2 were held jointly and severally liable for payment of the compensation amount. The claimants were also held entitled to interest at the rate of 12% per annum from the date of petition till payment.

Aggrieved by the impugned award, the appellant-insurance company preferred the instant appeal.

The submissions made by learned counsel representing the appellant and learned counsels representing respondents No.1 to 8 and respondent No.10 have been heard.

The only argument raised by learned counsel for the appellant-insurance company is that the compensation awarded by the tribunal was on the higher side. The income of the deceased was wrongly assessed as Rs.4500/- per month.

There appears to be no force in the argument of learned counsel for the appellant. Indeed, as stated by Smt. Shimla, widow that her deceased husband Suresh Kumar was engaged in cultivation of his own land and she and her father-in-law were also looking after the land but that does not mean that death of Suresh Kumar caused no pecuniary loss to the claimants because the agricultural land was still with them and they were managing the same. Needless to say that every person of the family engaged in the agricultural pursuits was contributing independently towards the income being yielded from the land. Learned tribunal rightly held that the deceased who was managing cultivation of his land, was on a better footing than a skilled labourer. Accordingly, the income of the deceased was rightly assessed as Rs.4500/- per month. Deducting 1/3rd of his income which the deceased was spending on himself the dependency of the claimants was worked out at Rs.3000/- i.e. Rs.36,000/- per annum. The age of the deceased was 32 years and applying multiplier of 17 the compensation was calculated as Rs.6,12,000/-.

No legal or clerical error in calculations could be pointed out by learned counsel for the appellant. Accordingly, there being no ground on which the award passed by learned tribunal could be challenged by the appellant, the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

31.08.2015.
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