IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.2459 of 1998 (O&M)
Date of Decision:7.10.2015

Amarjit Kaur and another
….Appellants

Versus

Ruppu Finance and Leasing Ltd. and others
….Respondents

(2) FAO No.2482 of 1998 (O&M)

National Insurance Company Ltd.
….Appellant

Versus

Amarjit Kaur and others
….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Mr. Gaurav Sharma, Advocate for
Mr. B.S. Bhinder, Advocate for the appellants in FAO No.2459 of 1998 and for respondents No.1&2 in FAO No.2482 of 1998.

Mr. Gopal Mittal, Advocate for respondent No.3-National Insurance Company in FAO No.2459 of 1998 and for the appellant in FAO No.2482 of 1998.

NAVITA SINGH, J.

1. Vide award dated 11.8.1998, compensation was awarded by Motor Accidents Claims Tribunal, Hoshiarpur (Tribunal for short) for the death of Gurbax Singh, who died as a result of accident, which took place on 18.6.1996. His widow and son were held entitled to receive an amount of Rs.1,50,000/- to be recovered from respondent No.3 i.e. insurer of the offending vehicle. The claimants preferred the appeal for enhancement while the Insurance Company knocked the door of this Court for placing the liability on the driver and owner.

2. Counsel for the claimants argued that the income of the deceased was taken to be Rs.1500/-, which was on the lower side because he was earning Rs.6000/- per month. Also it was contended that nothing was awarded for loss of consortium to the widow and for loss of love and affection to the son. Counsel for the Insurance Company argued that the income of the deceased taken for the

purpose of compensation was more than sufficient in 1996 because even the date of minimum wages was less at that time. Regarding multiplier, however, it was conceded that according to the age of the deceased, it should have been 13 and not 12. The arguments are accepted. The compensation on the basis of income would, therefore, be Rs.1,56,000/-. An amount of Rs.6000/- was awarded for funeral and last rites, which was also sufficient keeping the year of accident. For loss of consortium, the widow is granted an amount of Rs.1,00,000/-. The son was major at the relevant time and may not even be dependent on his father.

3. The total compensation is, therefore, enhanced by Rs.1,12,000/-

4. In appeal filed by the Insurance Company, the short prayer made at the time of arguments was that despite observing that the driving licence of Mehar Singh-respondent was fake, liability was fastened on the Insurance Company without giving recovery rights. Reference was made to para 11 of the award where the Tribunal held that witness from the relevant office proved from record that no licence was issued from Dehradun in the name of Mehar Singh son of Gurmukh Singh and rather at that very number i.e. 44573/D/95, the licence was in the name of Prem Kumar son of Kharaiti Lal, resident of Dehradun whereas the driver in this case was Mehar Singh son of Gurmukh Singh, resident of District Hoshiarpur. It was held in para 13 of the award that the driving licence was a fake one. However, since renewal had been made, the licence was taken to be valid.

5. The driver and owner did not come up to contest the appeal and, therefore, the appeal of the Insurance Company was heard in their absence. The original driving licence having been issued in the name of Prem Kumar and not in the name of Mehar Singh, mere renewal would not mean that the licence became valid. Since the licence was not genuine, the Insurance Company would have a right to make recovery from the insured.

6. Both the appeals are, therefore, allowed. In FAO No.2459 of 1998, the amount of compensation is enhanced to Rs.2,62,000/- and the enhanced amount shall fetch interest @ 6% per annum while in FAO No.2482 of 1998, it is held that the Insurance Company shall have a right to recover the amount paid by it, from the insured.

(NAVITA SINGH)
JUDGE

07.10.2015
Ishwar **Whether to be referred to reporter: Yes**