IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.3444 of 2007 (O&M)

1)

Shinderjit Kaur and others

......Appellants

Versus

Jaswinder Singh @ Mohni and others

......Respondents

FAO No.2528 of 2007 (O&M)

2)

United India Insurance Co. Ltd.

......Appellant

Versus

Shinderjit Kaur and others

......Respondents

Date of Decision: 30.07.2015

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. H.S.Dhindsa, Advocate, for appellants.

Mr. Gopal Mittal, Advocate, for respondent No.3.

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SHEKHER DHAWAN, J

Both the above appeals are against award dated 24.01.2007 whereby Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'The Tribunal') accepted the claim petition and awarded compensation of ₹2,31,000/- along with interest.

2. Claimants Shinderjit Kaur and others Vs. Jaswinder Singh @ Mohni and others filed FAO No.3444 of 2007 and United India Insurance

Co. Ltd. Vs. Shinderjit Kaur and others filed FAO No.2528 of 2007 on the ground that original Driving Licence in this case was fake and Insurance Company is entitled to recover the amount from 'The Tribunal' and owner of the offending vehicle.

3. Relevant facts for the decision of these two petitions that motor vehicle accident had taken place on 07.08.2003, at about 7.30 PM which resulted into death of Balbir Singh while he was going on his cycle from Mullanpur to Sudhar. At that time bus bearing No.PB-10N-9571, which was being driven by respondent No.1 Jaswinder Singh came from behind and the same was being driven in rash and negligent manner and struck against Balbir Singh. Resultantly Balbir Singh fell down from cycle and the bus ran over him and Balbir Singh died while he was being taken to Primary Health Center, Sudhar.

4. Respondents contested the claim petition. 'The Tribunal' after considering the material and evidence available on file awarded compensation of ₹2,32,000/- for the claimant-appellant i.e. widow, minor daughter of the deceased and mother of the deceased.

FAO No.3444 of 2007

5. Learned counsel for appellant took the plea that 'The Tribunal' has not awarded adequate compensation as 'The Tribunal' had applied the multiplier of 12 though, the age of deceased was 38 years and in fact it should have been 15 as per law laid down by Hon'ble Supreme Court in case **Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77**. More so 'The Tribunal' has not awarded any amount on account of loss of consortium, enhanced future earnings, loss of love and affection, funeral expenses and requested that the amount of

compensation be enhanced suitably.

6. Learned counsel for Insurance Company took the plea that reasonable compensation has already been awarded.

7. Having considered the rival submissions made by learned counsel for both the parties, this Court is of the considered view that 'The Tribunal' has not applied the correct multiplier. Multiplier of 15 should have been taken keeping in view the age of deceased to be 38 years. Claimants are also entitled for enhanced future earnings as per law laid down by Hon'ble Supreme Court in case **Sarla Verma and others Vs. Delhi Transport Corporation and another (Supra)**. 'The Tribunal' has also not awarded any amount on account of loss of consortium for the widow and two minor children of deceased and only a meager amount of ₹2,000/- has been awarded on account of last rites expenses whereas it should have been ₹25,000/- as per law laid down in case **Sarla Verma and others Vs. Delhi Transport Corporation and another (Supra)**. Accordingly the amount of compensation is re-assessed to be as under:

Monthly income	₹2400/-	
Less self dependency 1/3rd	₹800/-	
Monthly income	₹1600/-	
Add 50% on account of future earnings	₹800/-	
Annual income	₹2400/- x 12 = ₹28,800/-	
Multiplier of 15	₹28,800/- x 15	₹4,32,000/-
Loss of consortium for widow of the deceased		₹1,00,000/-
Loss of love and affection for two minor children of the deceased	₹1,00,000/- each	₹2,00,000/-
Funeral Expenses		₹25,000/-
Total compensation		₹7,57,000/-
Compensation already awarded	₹2,32,000/-	
Enhanced compensation		₹5,25,000/-

7. The appeal is allowed partly and the enhanced compensation of

₹5,25,000/- shall be payable from the date of claim petition. Appellants shall also be entitled to interest @ 7.5% per annum on the enhanced amount from the date of filing of the claim petition till its realization.

FAO No.2528 of 2007

8. Learned counsel for Insurance company took the plea that claim petition was not maintainable as respondent No.1 was not having any valid driving licence at the time of accident.

9. Learned counsel for the appellant took the plea that insurance company is not liable to make any compensation as original driving licence was fake. Subsequently renewal of fake driving licence does not change the nature of driving licence from fake to genuine driving licence. As such appellant-insurance company is certainly entitled to recover the amount from driver and owner of offending vehicle as per law laid down by Hon'ble Supreme Court in case **National Insurance Co. Ltd. Vs. Swaran Singh and ors. 2004(2) RCR (Civil) 14**.

10. I have heard the learned counsel for both the parties in the present case and of the considered view that 'The Tribunal' has already recorded findings that copy of driving licence was placed on file. The onus was on the appellant-Insurance Company to prove that the said driving licence was fake and not a genuine document. However, insurance company has not been able to prove the said document to be fake driving licence. Rather it has been proved that renewal of the licence made by DTO Bhatinda on 11.06.2004. There cannot be any presumption under the law that driving licence Exhibit R-4 was a fake driving licence and as such no recovery rights were granted by 'The Tribunal'. 'The Tribunal' has rightly placed reliance upon Exhibit R-1 submitted by DTO Bhatinda that licence

was issued after endorsement for use of heavy transport vehicle and thereafter it was renewed twice. 'The Tribunal' rightly recorded observation that there cannot be any presumption that respondent No.1 Jaswinder Singh was not holding a valid driving licence at the time of accident so no recovery rights were given.

11. Present appeal filed by Insurance company is without any merit and same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

July 30, 2015
msd