

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.2860 of 2009
Date of Decision: 14.05.2015

Raj Kumari and others

..... APPELLANTS

VERSUS

Bir Inder Singh and others

..... RESPONDENTS

PRESENT: - Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Ashish Pannu, Advocate
for respondents No.1 and 2.

Mr. Ravinder Arora, Advocate
for respondent No.3-Insurance Company.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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

SHEKHER DHAWAN, J.

The claimants are in appeal seeking
enhancement of compensation awarded by the Motor
Accident Claims Tribunal, Karnal (hereinafter referred to as

'The Tribunal') dated 18.02.2009 whereby 'The Tribunal' awarded compensation of ₹ 02 lacs.

The relevant facts of the case that Raj Pal, aged about 40 years, motor-cyclist died because of Motor Vehicle Accident involving Car bearing registration No.PB-07L-3104 which was being driven by Bir Inder Singh, respondent No.1 in a rash and negligent manner. The matter was reported to the police. The claimants claimed compensation to the tune of ₹20 lacs. 'The Tribunal' returned the findings that the accident resulted into injuries to the deceased but he had earlier sustained injuries in motor vehicle accident and his death had not taken place because of injuries sustained in the accident. The appellants are against the said findings recorded by 'The Tribunal' under Issue No.2A.

Mr.Sagar Aggarwal, learned counsel for the appellants took the plea that most of the facts are not disputed that the motor vehicle accident had taken place on 27.03.2005 and Raj Pal had sustained injuries as Car No.PB-07L-3104 hit against him while he was going on motorcycle. Raj pal died on 27.07.2005. 'The Tribunal' returned the findings that Raj Pal had sustained injuries on 27.02.2005. Learned counsel for the appellants also took the plea that 'The Tribunal' has wrongly recorded the findings that the death was not because of injuries having been

sustained in the accident rather Raj Pal died because of specticemia and he remained as patient during the intervening period. The injuries caused in the accident resulted the cause of death and the respondents are liable to pay the compensation in such like cases. The claimant s are entitled to receive compensation as income of the deceased was ₹10,000/- per month and his future earnings were to grow with the passage of time and the earnings were to be added on account of enhanced future earnings. Self dependency is to be taken as 1/4th and multiplier of 15 was to be applied for arriving at the compensation but 'The Tribunal' has not awarded any amount.

Learned counsel for the appellants also placed reliance upon judgment of Hon'ble Andhra Pradesh High Court in **Shoba Rani and others Vs. New India Assurance Company Ltd.**, 2002 ACJ 1682 where the Hon'ble Andhra Pradesh High Court was seized of the controversy.

Mr. Ravinder Arora, learned counsel for respondent No.3 took the plea that 'The Tribunal' has already awarded 'just compensation' keeping in view the fact that the deceased sustained injuries in the accident. However, cause of death was not because of injuries having been suffered in this accident rather he was an old patient and because of that ailment, the respondents cannot be held liable and appeal is without any merit and the same be

dismissed.

Having considered the contentions raised by learned counsel for the parties and the view taken by Hon'ble Andhra Pradesh High Court, this Court is of the considered view that in this case 'The Tribunal' has already appreciated the testimonies of PW-3 Dr. H.L. Monga and PW-7 Dr. Akash Monga, who had treated injured Raj Pal at the initial stage i.e. on 27.03.2005. At that time, Raj Pal was having pain of left hip and right foot heel. On 03.04.2005 on radiological examination, the fracture of neck femur left side was found and the patient required total hip replacement. At that time, it was also diagnosed that Raj Pal was diabetic patient and a case of chronic hepatitis and mild hypertensive at the time of his admission. Testimony of PW-10 Dr. Ajay Mittal was also relied upon, who had stated before 'The Tribunal' that Raj Pal was patient of diabetes mellitus with diabetic foot with septicemia with severe anemia with chronic renal failure. As per doctor attending to Raj Pal, septicemia was the result of the diabetic food and the patient went into shock due to septicemia and ultimately died because of that reason. On the basis of said evidence available on file, 'The Tribunal' has rightly returned the findings that cause of death of Raj Pal was not because of injuries rather it was because of old medical history of Raj Pal. It is settled proposition of law in such like cases where

the liability cannot be fastened upon owner and insurer of the vehicle. Moreover, the injured sustained fracture of neck femur left side and his hip was totally replaced and he was discharged on 20.04.2005. The death had taken place on 27.07.2005.

In view of the above, 'The Tribunal' has rightly taken the view and the said findings do not call for any interference.

As regards to compensation on account of injuries, 'The Tribunal' has already taken care of the loss of claimants and awarded 'just compensation'. In view of the above, the present appeal is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 14, 2015
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