

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**XOBJC No.127-CII of 2014 in / and
FAO No.2819 of 2012 (O&M)
Date of Decision: 21.05.2015**

**Reliance General Insurance Company Ltd
Versus**

.....Appellant

Vishnu Devi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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| 1. Whether Reporters of 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 |

Present:- Mr. Tejinder Joshi, Advocate,
for appellant.

Mr. R.K.Saini, Advocate,
for the respondents.

SHEKHER DHAWAN, J

Present appeal as well as cross-objections have been filed against award dated 22.10.2011 by Motor Accident Claims Tribunal, Narnaul (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation to the tune of ₹6,22,000/- on account of death of Jeet Bahadur. Appellant insurance company had preferred the appeal against the said award whereas cross objections have been filed by claimants.

2. Relevant facts of the case that on 05.10.2009 at about 5 p.m. Jeet Bahadur along with his rickshaw was standing near Punjab National Bank Mahendergarh Road, Narnaul. In the meantime a 'dumper' bearing registration No.HR-63A-3441 which was being driven by respondent No.1 in a rash and negligent manner came and struck against him. Resultantly Jeet Bahadur along with his rickshaw fell down on the road and suffered

injuries. Respondent No.1 fled away from the spot after leaving his vehicle on the spot. He was taken to the hospital in injured condition and later on died on account of injuries sustained him. He was of the age of 25 years and was rickshaw puller and claimants are widow, two minor children and parents of the deceased.

3. Respondent contested the claim petition on all accounts. 'The Tribunal' after considering the material and evidence available on file awarded compensation to the tune of ₹6,22,000/-. Claimants as well as insurance company being dis-satisfied with the awarded amount of compensation are in appeal/cross-objection before this Court.

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4. Mr. Tejinder Joshi, learned counsel for appellant took the plea that there was no eye witness in this case and 'The Tribunal' had recorded erroneous finding thereby fixing liability of respondent on the ground that respondent No.1 was rash and negligent while driving 'dumper' bearing registration No.HR-63-A-3441. The matter was not reported to the police. No DDR was recorded.

5. While arguing this point Mr. R.K.Saini learned counsel for respondent took the plea that 'The Tribunal' had recorded findings after appreciating the evidence and specially in view of the fact that respondent No.1 was facing criminal trial for causing this accident. On this point reliance was placed on testimony of PW-2 Kaushal Bahadur also. Krishan Kumar driver of dumper never stepped into the witness box before 'The Tribunal' to deny the allegations of rash and negligent driving. Hence there are no ground to reverse the findings recorded by 'The Tribunal' that accident had taken place because of rash and negligent driving of

respondent No.1. The present appeal is without any merit and be dismissed.

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6. Mr. R.K.Saini learned counsel for cross-objector/claimant took the plea that 'The Tribunal' awarded inadequate compensation in the case as 'The Tribunal' has not awarded any amount on account of enhanced future income as per law laid down by Hon'ble Supreme Court in case **Rajesh and others Vs. Rajbir Singh and others, 2013(9) SCC 54** that 50% was to be added in the income of the deceased for determining the amount of compensation. More so, 'The Tribunal' has not awarded even minimum amount of ₹1,00,000/- on account of consortium and ₹25,000/- on account of funeral expenses and on account of love and affection to the two children. So the amount of compensation be enhanced suitably.

7. Mr. Tejinder Joshi learned counsel for respondent took the plea that 'The Tribunal' has awarded 'Just Compensation' in this case. More so the judgment regarding enhanced future earning is already pending before Larger Bench before Hon'ble Supreme Court and claimants are not entitled to receive any amount on that account. However, learned counsel for respondent insurance company fairly conceded that there is no stay regarding grant of future enhanced income by Hon'ble Supreme Court.

8. 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 awarded adequate compensation in this case. Nothing has been awarded on account of enhanced future earnings as per law laid down by Hon'ble Supreme Court in case **Rajesh and others Vs. Rajbir Singh and others (Supra)** though deceased was of the age of 25 years and he had bright future prospects of earning. The minimum amount of consortium has

not been awarded though one of the claimant is widow. Minimum funeral expenses had also not been awarded. Nothing has been awarded on account of loss of love and affection to the minor children, hence, the amount of compensation enhanced in this case is as reassessed under:

Income of deceased	₹4,000/- per month
Annual income	₹4,000/- x 12 = Rs.48,000/-
Self dependency 1/4 th	₹12,000/-
Actual income	₹36,000/-
Future enhanced earning 50%	₹18,000/-
Total income	₹54,000/-
Multiplier of 17	₹9,18,000/-
Loss of consortium	₹1,00,000/-
Funeral expenses	₹25,000/-
Loss of love and affection	₹1,00,000/-
Enhanced amount	₹11,43,000/-
Compensation already paid	₹6,22,000/-
Enhanced compensation	₹5,21,000/-

9. The enhanced compensation of ₹5,21,000/- shall be payable from the date of claim petition. Enhanced amount of compensation be paid within 45 days from today failing which claimants shall be entitled to receive interest @ 7.5% per annum from today.

10. Resultantly the appeal stands dismissed and cross-objections filed by claimant partly allowed.

**(SHEKHER DHAWAN)
JUDGE**

May 21, 2015

msd