IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3345 of 2012 (O&M)
Date of decision: 14.10.2015

National Insurance Co. Ltd.

............Appellant

Versus

Hardev Singh and others

...........Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.C. Kapoor, Advocate,
for the appellant.

Mr. Madan Sandhu, Advocate,
for respondent Nos. 1 and 2.

Ritu Bahri, J.

National Insurance Company Ltd.-appellant has filed this appeal against the Award dated 29.03.2012 passed by the Motor Accident Claims Tribunal, Mansa (hereinafter referred to as `the Tribunal'), whereby compensation to the tune of Rs.1,73,000/- has been awarded to claimants (respondent Nos. 1 and 2 herein) on account of death of Gurmail Singh in a motor vehicle accident, which took place on 13.08.2010.

Brief facts of the case are that on 12.08.2010, deceased-Gurmail Singh along with Raju Singh and Charanjit Singh had gone to Hamirpur (HP) on a truck bearing registration No. PB-11-Y-9438 for loading the barely. The said truck was being driven by Charanjit Singh. On the next day i.e. 13.08.2010 when Charanjit Singh-driver (respondent No.3 herein) was unloading the barley from the said truck, suddenly the truck got overturned and its front mirror had broken. Charanjit Singh-driver and Raju managed to come out of the truck. However, when Gurmail Singh tried to come out of the truck, it again overturned, as a result of which, Gurmail Singh had come beneath the truck and died at the spot. With regard to the accident, FIR No.279 dated 14.08.2010, under Sections 279, 337, 304-A IPC was registered at Police Station, Sadar Hamirpur (HP) at the instance of Raju. Consequently, the claimant-respondent Nos. 1 and 2 filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal has returned a finding on issue No.1 that the accident had taken place on account of rash and negligent driving of truck bearing registration No.PB-11-Y-9438 by Charanjit Singh-respondent No.3 (respondent No.1 in the claim petition), as a result of which, Gurmail Singh received injuries and died at the spot. This finding is rightly based on the depositions of Mohinder Kaur (CW-1) and Jasvir Singh (CW-2), who have reiterated the version given in claim petition. FIR (Ex.C1) was registered at the instance of Raju. Apart from this, claimants had also proved postmortem report and death certificate of deceased-Gurmail Singh a Ex.C2 and Ex.C3 respectively. The offending vehicle was insured with the appellant-insurance company.

In the absence of any evidence regarding income, the Tribunal had assessed the compensation by taking the income of deceased as Rs.3000/- per month as a daily wager, out of which, 1/3rd was deducted towards personal expenses of the deceased. The annual dependency of the claimants, thus, came to Rs.24,000/- (Rs.2000 x 12). Keeping in view of the age of claimants, multiplier of 7 was applied and they were held entitled to a sum of Rs.1,68,00/- (Rs.24,000/- x 7) as compensation. In addition to it, Rs.5000/- were awarded towards funeral expenses of the deceased. Ultimately, the claimants were held entitled to compensation to the tune of

Rs.1,73,000/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

Feeling dissatisfied with the impugned award, the Insurance Company-appellant has preferred the present appeal.

Learned counsel for Insurance Company-appellant has assailed the findings of Tribunal on issue No.4, whereby it is held that even if driver-Charanjit Singh was not holding a valid driving licence, the Insurance Company was liable to pay compensation to the claimants and in turn, it would be entitled to recover this amount from the insured/owner i.e. Umrao Singh (respondent No.4 herein).

I have heard learned counsel for the parties and perused the case file.

On 22.09.2015, learned counsel for the respondents had given the driving licence of the driver to learned counsel for the appellant. However, the appellant was not able to make any verification qua that licence. Moreover, since liberty has been granted to the Insurance Company-appellant to recover the amount of compensation from owner of the offending vehicle namely Umrao Singh-respondent No.4 (respondent No.2 in the claim petition), no ground is made out to interfere in the impugned Award passed by the Tribunal.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

14.10.2015
ajp