IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1483 of 2013 (O&M)
Date of Decision:- 21.04.2015

HDFC Ergo General Insurance Co. Ltd.
.....Appellant

Versus

Jasbir Kaur and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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. Nitin Mittal, Advocate
for Mr. P.M. Goyal, Advocate
for the appellant.

Mr. S.S. Sidhu, Advocate
for respondent Nos.1 to 4.

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SHEKHER DHAWAN, J.

Appellant–Insurance Company has challenged the award dated 16.01.2013, passed by Motor Accident Claims Tribunal, Rupnagar (hereinafter to be referred as 'The Tribunal'), whereby 'The Tribunal' awarded compensation of ₹23,15,000/-, on account of death of Dalbir Singh.

2. Taking the case from undisputed facts that on 22.05.2012, Dalbir Singh (since deceased) was standing along with Manjit Singh and

Jaswant Singh on the left side of the road, after parking his Indigo car bearing registration No.PB-12-N-8871. At about 5.30 PM one tipper bearing registration No.PB-65-R-1355, which was being driven rashly and negligently by respondent No.2 came from Ropar side and struck against the car of Dalibr Singh. Resultantly, Dalbir Singh sustained grievous injuries and was taken to Civil Hospital, Kurali. Later on, he was shifted to PGI, Chandigarh, where he succumbed to the injuries. The matter was reported to the police. The claimants took the plea that Dalbir Singh was an agriculturist and was also running a dairy farm and used to earn ₹60,000/- per month and claimed compensation to the tune of ₹70 lacs. The respondents contested the claim petition. 'The Tribunal' after appreciating the evidence, took the income of the deceased to be ₹15,000/- and awarded compensation of ₹23,15,000/-.

3. Mr. Nitin Mittal, Advocate, learned counsel for the appellant-Insurance took the plea that 'The Tribunal' has assessed the income of the deceased to be ₹15,000/-, without any supporting documents. The father of the deceased had appeared as PW-3 and took the plea that the land was owned by him and his two brothers. The deceased was only assisting the management of the agricultural land for the crops of paddy and wheat. There is no evidence that the deceased was selling milk but still the income of the deceased was taken to ₹15,000/- per month. The deduction towards personal expenses of the deceased are taken $1/3^{rd}$ and not $1/4^{th}$. So, the award be suitably amended and amount of compensation be reduced accordingly.

4. Mr. S.S. Sidhu, Advocate, learned counsel for respondent Nos.1 to 4 took the plea that claimants have been able to produce and prove the record of milk society, as the milk was being sold by Dalbir Singh to the society. The witnesses examined by claimants have produced the income of the deceased to be ₹15,000/- plus. PW3 has come with the specific plea that the deceased was having 18 acres of land in the name of the family. As per Jasvir Kaur PW1, Dalbir Singh was earning ₹60,000/- per month by doing agriculture pursuit as well as by sale of milk.

5. Having considered the rival contentions, this Court is of the considered view that 'The Tribunal' has rightly appreciated the oral as well as documentary evidence produced on the file and determined the monthly income of the deceased Dalbir Singh to be ₹15,000/- and same cannot be considered to be on higher side keeping in view the fact that deceased as well his family members were owning 18 acres of agricultural land. They were performing the agriculture operations. Apart from that deceased Dalbir Singh was carrying on dairy farming and used to sell milk to the society and that income is also to be taken into consideration. The oral evidence, by way of statement of PW1 Jasvir Kaur, was to the extent that her husband was earning ₹60,000/- per month but 'The Tribunal' taking the entire evidence into consideration and keeping in view the land holdings of the deceased and the income of the deceased from dairy farming took his monthly income to be ₹15,000/-. The income determined by 'The Tribunal', cannot be considered to be on the higher side. The age of the deceased was 26 years as per post mortem

Ex.P2. There are four dependents, including wife, minor daughter as well as parents of the deceased. $1/4^{th}$ amount has rightly be deducted on account of self dependency. Multiplier of 17 has been correctly applied. The amount of compensation awarded by 'The Tribunal' cannot be considered to be on higher side and there is no illegality calling for interference by way of present appeal.

6. Resultantly, the appeal stands dismissed.

(SHEKHER DHAWAN)
April 21, 2015 JUDGE
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