

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

FAO No.10526 of 2014

Date of Decision: January 15, 2015

Shri Ram General Insurance Co. Ltd.

...Appellant

Versus

Rita and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Arun Sharma, Advocate
for Mr. Tajender K. Joshi, Advocate
for the appellant-Insurance Company.

FATEH DEEP SINGH, J.

The Insurer-appellant has challenged the award of learned Motor Accident Claims Tribunal, Karnal dated 9.10.2013, whereby a sum of ₹6,27,500/- has been awarded as compensation with interest @ 7.5% per annum.

It is the admitted fact on the records and so proved that on 31.7.2013 around 10.30 p.m. Shamsheer Singh deceased while going on motorcycle No.HR-40A-6036 from village Popra to his fields was hit by canter vehicle No. HR-56-6422 being driven in a rash and negligent manner by its driver-cum-owner Mohinder Singh-respondent and which was insured with the appellant-Insurer. There is no challenge preferred to the evidence led by the claimants as to the mode of the accident proved through PW2 Varinder Singh and PW3 Jasbir Singh, eye-witnesses at whose behest the acts of rash and negligent driving have been

attributed to the respondent-driver-cum-owner of the offending vehicle. It has been rightly concluded by the Tribunal that their statements have never been rebutted by the driver who has been contesting the litigation and has rightly drawn the adverse presumption in terms of Section 114 of the Evidence Act and therefore, the evidence having remained unrebutted the findings on issue No.1 cannot be find fault with.

As has been assailed on behalf of the appellant the second question revolves around the driving licence of the driver. Since the onus of this issue was upon the respondent-Insurer, the counsel for the appellant does not dispute the fact that by virtue of Insurance policy the vehicle was under the Insurance coverage of the appellant and the driver has proved on the records copy of his driving licence Ex.R1, copy of route permit Ex.R4 and there is no evidence that the driving licence held by the driver was illegal, invalid and since the Insurer on whom the burden lay did not lead any evidence, thus, the conclusions drawn by the learned Tribunal on this aspect of the matter need not be disturbed. Neither the counsel for the appellant could convince this Court how the income of the deceased taken by the learned Tribunal to be ₹45,00/- per month was on the higher side as in the absence of any evidence, he was considered to be a daily wager earning ₹150/- per day. Learned Tribunal heavily relied on **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77** to draw the conclusion considering the age of the deceased to be 36 years and applied the multiplier of 15 and has assessed the dependency compensation of ₹6,07,500/- However, meagre amounts under the conventional

heads have been awarded. There is nothing unjust for the appellants to challenge and, therefore, does not call for any interference.

Thus the instant appeal being without any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

January 15, 2015
aarti