IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1317 of 2015 (O&M)
Date of Decision: March 03, 2015

Shri Ram General Insurance Company Ltd.
...Appellant

Versus

Manjit Devi and others
...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Tajender K. Joshi, Advocate
for the appellant.

****

INDERJIT SINGH, J.

Appellant Shri Ram General Insurance Company Ltd. has filed this appeal against Manjit Devi etc. respondents-claimants and Dharam Pal respondent-Driver-cum-owner, challenging the award dated 21.10.2014 passed by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal'), vide which the claim of ₹12,62,000/- along with interest @ 9% per annum from the date of petition till the actual realization has been awarded.

The brief facts of the case are that respondents-claimants filed claim petition in which it is stated that on 22.03.2013 at about 7.30 P.M., Gurpreet Singh along with Prem Nath and 10-15 other persons were going to attend a Satsang by means of pick-up vehicle. At about 2.00 A.M., when they reached near village Jhattipur, they stopped at Mahalaxmi Dhabha for taking tea. Some of the passengers started taking tea, whereas Gurpreet Singh and Dharmender Singh alias Boby went to pass urine. When they were urinating by the side of the road, a TATA LPT bearing registration No.HP-12D-7633 being driven by its driver rashly, negligently and at a very high speed, came and directly hit Gurpreet Singh, as a result of which, he sustained serious and grievous injuries and died at the spot. An FIR was registered at Police Station Samalkha regarding the accident on 23.03.2013.

It is also stated in the claim petition that the deceased was about 32 years of age. He was working as Supervisor in Nawan Garaon Society and his monthly income was ₹9000/- per month. An amount of ₹50,000/- was spent on transportation of the dead body and last rites.

Respondent-driver-cum-owner filed written statement raising preliminary objections. It has been alleged that no accident had taken place due to rash and negligent driving of the offending TATA vehicle and a false case has been got registered by the claimants in collusion with local police only to get compensation.

Respondent-Insurance Company (in claim petition) also filed written statement and denied the accident. It has been submitted that no intimation about the alleged accident was given by driver-cum-owner to the Insurance Company. It is also sated that accident in question took place due to negligence on the part of the deceased himself as he did not observe the traffic rules. It is further stated that driver was not holding valid and effective driving licence at that time of accident.

Claimants examined Smt.Manjit Devi as PW-1, Prem Nath as PW-2 and produced documents Ex.P1 to P13 and Mark-A to Mark-C.

On the other hand, respondent-driver-cum-owner tendered in evidence copy of driving licence Ex.R2, copy of registration certificate of offending TATA vehicle Ex.R3, copy of insurance policy Ex.R4 and copy of policy certificate-cum-policy schedule Ex.R5. Respondent-Insurance Company tendered in evidence copy of insurance policy Ex.R1.

Learned Tribunal after appreciating the evidence, awarded an amount of ₹12,62,000/-. It is also ordered that respondent-Insurance Company shall have a right to recover the same from respondent-Driver-cum-owner.

At the time of arguments, learned counsel for the appellant-Insurance company argued that amount of ₹12,62,000/- has been awarded in excess and the income of the deceased assessed by the Tribunal @ ₹8,000/- per month is on the higher side.

I have heard learned counsel for the appellant and have gone through the record.

The perusal of the record shows that appellant have not produced any evidence to rebut the evidence of the claimants-respondents. The Tribunal in view of the evidence on the record that deceased Gurpreet Singh was working as Supervisor in Nawan Garaon Society, assessed the income of the deceased @ ₹8000/- per month on the basis of Collector rate for daily wager. The multiplier has been correctly applied. ₹1 lac as loss of consortium has been given and ₹10,000/- has been awarded as funeral expenses. In no way, the amount awarded by the Tribunal can be held as excessive nor the income assessed by the Tribunal can be held as on higher side. There is no dispute regarding the Insurance Policy. The copy of the driving licence of respondent-driver has been produced as Ex.R2, which covers the date of accident. The Tribunal in the Award has held that authorization certificate of the offending vehicle shows NP authorization w.e.f 26.04.2013 to 11.04.2015 whereas the accident was caused on 23.03.2013. Thus, at the time of accident, the driver of offending vehicle was not having legal permit to ply it in another State.

From the perusal of the Award, in no way, it can be held that Insurance Company is not liable to pay any amount to the claimants.

In view of the above discussion, I find that the findings given by learned Tribunal in the impugned award dated 21.10.2014 are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present appeal, the same is dismissed.

March 03, 2015 **(INDERJIT SINGH)**
Vgulati **JUDGE**