

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

CM No.5895-CII of 2015 in/and
FAO No.2147 of 2014 (O&M)
Date of decision: 17.11.2015

Shri Ram General Insurance Company Limited

....Appellant

Versus

Gurjeet Kaur and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjeev Goyal, Advocate,
for the appellant.

Mr. Surinder Garg, Advocate,
for respondent No.1.

RITU BAHRI J. (Oral)

With the concurrence of learned counsel for the parties, main appeal is preponed and taken up today itself for disposal.

Shri Ram General Insurance Company Limited-appellant has filed this appeal against the award dated 06.12.2013 passed by Motor Accident Claims Tribunal, Sri Muktsar Sahib (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.6,42,000/- has been awarded in favour of the claimant-Gurjeet Kaur (respondent No.1 herein) on account of death of her son namely Jasveer Singh in a motor vehicular accident which took place on 09.11.2001.

Brief facts of the case are that on 09.11.2001, Jasveer Singh along with his father-Nachhattar Singh, Darshan Singh and Beant Singh had

gone to village Harnawali (Rajasthan) in a car. At about 7.30 P.M., they stopped their car at Tax Barrier, Sito Gunno for having a tea. When they were walking towards the tea shop, the offending Truck bearing registration No.HR-38-C-3267 being driven by Ram Lal-respondent No.2 in a rash and negligent manner came from the side of Matili at a high speed and struck against Jasveer Singh, as a result of which, he fell down on the road and received multiple injuries. The truck driver stopped the truck at some distance and disclosed his name and address. Jasveer Singh was taken to Civil Hospital, Sito Gunno, but he died on the way to hospital. With regard to the accident, FIR No.117 dated 10.11.2011, under Section 304-A IPC was registered at Police Station, Bahaw Wala against Ram Lal at the instance of Nachhattar Singh. Consequently, claimant-respondent No.1 filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of truck bearing registration No. HR-38-C-3267 by Ram Lal and thus, returned the finding on issue No.1 in favour of the claimant. The income of the deceased was taken as Rs.6000/- per month, out of which $\frac{1}{2}$ has been deducted on account of personal expenses of the deceased. Thus, the dependency of claimant-respondent No.1 came to Rs.3000/- per month i.e. Rs.36,000/- per annum. As per postmortem report, the deceased was aged about 27 years at the time of accident/death. Accordingly, after applying the multiplier of 17, amount of compensation came to be Rs.6,12,000/-. Besides this, the claimant was also held entitled to Rs.10,000/- on account of loss of estate, Rs.10,000/- as funeral expenses and Rs.10,000/- on account of loss of love and affection. Ultimately, the

claim petition was accepted and the claimant was found entitled to a total compensation of Rs.6,42,000/- along with interest at the rate of 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the appellant-Insurance Company has preferred the present appeal.

The main ground of appellant-insurance company for modifying the impugned Award is that the multiplier of 17 has been applied keeping in view the age of deceased and not the age of his mother-claimant. Reference has been made to the judgment passed by the Hon'ble Supreme Court in **National Insurance Company Vs. Shyam Singh & others**, 2011 (3) RCR (Civil) 679.

Learned counsel for the appellant has argued that the deceased was negligent in crossing the road, when the offending truck hit him and he died on account of the injuries received in that accident. The accident could have been avoided if the deceased had taken the caution measure while crossing the road.

The issue of multiplier has already been elaborately examined by the Hon'ble Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **Munna Lal Jain and another vs. Vipin Kumar Sharma and others**, 2015 (3) Recent Apex Judgments 459. In view of the aforesaid authorities, this Court is of the view that the multiplier has been rightly applied by the Tribunal in the present case. The offending vehicle was a truck and it was the duty of the truck driver to be vigilant that anybody who was crossing the road, might not hit by his truck. He is not expected to drive his vehicle rashly and negligently. Moreover, this issue has already been considered by

this Court in a number of judgments.

After going through the impugned Award, no illegally, much less perversity has been found therein warranting interference by this Court.

The evidence has been appreciated in the right perspective.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

17.11.2015
ajp