

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.1906 of 2015 (O&M)

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Date of decision:20.3.2015

Reliance General Insurance Company Ltd.

.....Appellant

v.

Smt. Rajni Devi and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Nitin Mittal, Advocate for Mr. Paras Money Goyal,
Advocate for the appellant.

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Inderjit Singh, J.

This appeal has been filed by the Reliance General Insurance Company Limited (hereinafter referred to as 'the appellant') against the impugned award dated 19.11.2014 passed by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal'), vide which an award of ₹12,98,080/- along with interest @6% per annum from the date of filing the petition till its actual realization has been passed by holding that respondents No.1 to 3 in the petition i.e. Driver, Owner and Insurance Company (appellant herein) shall be jointly and severally liable to make the above compensation along with interest in favour of the claimants-petitioners (respondents No.1 to 5 herein) for the death of Mohan Lal in motor-vehicle accident on 1.9.2013.

At the time of arguments, learned counsel for the appellant argued that the Tribunal had taken the income of Mohan Lal (since deceased) as labourer at the rate of ₹6,000/- per month which is excessive, whereas the Tribunal should have taken the rate as provided under the Minimum Wages Act, which is an amount of ₹5,300/- per month. Learned counsel further argued that 1/5th has been deducted from the amount and future prospectus have been given. Learned counsel also argued that it is also a case of contributory negligence.

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

From the record, I find that five claimants have filed the claim petition against Ajay Kumar, Driver, Prem Singh, Owner and Reliance General Insurance Company Limited and sixth was the deceased. Where the deceased is a poor person and a large family is dependent upon him, it is not expected that he will spend 1/3rd or 1/4th amount on himself as held by the Hon'ble Supreme Court in New India Assurance Co. Ltd. v. Gopali and others, 2012 (3) R.C.R. (Civil) 818. The Hon'ble Supreme Court held that in the case of poor persons, even the deduction can be held upto 1/10th, as held in the above stated case. The Tribunal has taken the income of the deceased only at ₹6,000/- being labourer. Nowadays, a daily wage labourer earns ₹200/- to ₹300/- per day and the evidence has been produced by the claimants and, in no way, this amount can be held as excessive. A reasonable amount has been taken as income of the deceased on the basis of evidence.

As per the law prevalent, at this stage, future prospectus have to be added while granting the compensation to the claimants. The learned Tribunal has applied the multiplier and the award amount has been calculated on the basis of the law laid down by the Hon'ble Supreme Court, which has been fully discussed in the judgment. The judgments of Hon'ble Supreme Court have not been set aside so far. Further, I find that the Driver in the written statement has nowhere taken the plea of contributory negligence. Rather, the owner of the vehicle has not denied the accident and alleged that the accident had occurred due to the negligence of the deceased as he was also negligent. Learned counsel for the appellant argued that it was head on collision, therefore, it will be presumed as contributory negligence. When there is no case of Driver of contributory negligence, nor there is an iota of evidence on record nor any witness had come to the witness box to say that it was a case of contributory negligence, therefore, there is no evidence on the record to show that the deceased was also negligent for the accident.

Therefore, from the above, I find no merit in the arguments of the learned counsel for the appellant. The Tribunal has passed the award as per the evidence, which is correct and as per law and the same is upheld.

Finding no merit in the appeal, the same is dismissed.

March 20, 2015.

(Inderjit Singh)
Judge

hsp