IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O.No.2800 of 2015 (O&M)
Date of Decision: 14th July, 2015

TATA AIG General Insurance Company Limited

...Appellant

Versus

Rajwinder Kaur & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Rajesh K.Sharma, Advocate,
for the appellant.

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Naresh Kumar Sanghi, J.(Oral)

The present first appeal against order has been filed by the Tata AIG General Insurance Company Limited, insurer of the car bearing temporary registration No.PB-02-BK-0827 (hereinafter referred to "offending vehicle") challenging the Award dated 08.12.2014 passed by learned Motor Accidents Claims Tribunal, Amritsar, (for brevity "learned Tribunal") whereby a sum of ₹ 23,85,000/- (Rupees twenty three lacs and eighty five thousand only) along with interest at the rate of 6% per annum was awarded as compensation to the widow, three minor children and mother of Sakattar Singh (since deceased).

Learned counsel for the appellant has raised the following contentions:-

(i) the claimants have failed to substantiate the fact that Sakattar Singh (since deceased) was earning ₹ 10,000/- (Rupees ten thousand only)per month; and

(ii) the learned Tribunal has wrongly added ₹ 5,000/- (Rupees Five thousand only) in the monthly income of Sakattar Singh (since deceased) as future prospects.

I have heard learned counsel for the appellant and with his able assistance gone through the material available on record.

Factum of death of Sakattar Singh in the motor vehicular accident due to rash or negligent driving on the part of the Gurinder Singh is not in dispute and as such, there is no necessity to discuss the said issue in detail however, the brief description of the facts would give a clear back ground of the case. On 08.12.2013 Sakattar Singh (since deceased) while riding motorcycle bearing registration No.PB-02-BT-6289 was returning to his house after attending his duty. Simranjit Singh was a pillion rider on the said motorcycle. Davinder Singh, Gurjit Singh and Gurpal Singh were following the said motorcycle in Indica Car bearing registration No.PB-02-AL-0515. When the motorcycle of Sakattar Singh (since deceased) reached near the Govt. School, Naushehra Pannuan, Tarn Taran, the offending car came from Tarn Taran side which was being driven by Sakattar Singh son of Dalip Singh (respondent No.7 in the present appeal) rashly or negligently and hit the motorcycle of Sakattar Singh (since deceased). As a result thereof, the occupants of the motorcycle fell down on the road and suffered multiple injuries. Later Sakattar Singh son of Karam Singh succumbed to the said injuries. FIR No.189 dated 09.12.2013 was registered at Police Post Sarhali, District Tarn Taran.

The claimants i.e widow, three minor children and mother of Sakattar Singh (since deceased) filed the claim petition against the driver, the owner and the insurance company of the offending vehicle alleging that Sakattar Singh (since deceased) was working with Raj Tent House, Ajnala Road, Amritsar and was getting a salary of ₹ 11,500/- (Rupees Eleven thousand and five hundred only) per month. He was also doing a part time job of light and sound and had additional monthly income of ₹ 10,000/- (Rupees ten thousand only). The claimants averred that the total income of Sakattar Singh (since deceased) was approximately ₹ 21,500/- (Rupees Twenty one thousand and five hundred only) per month. They claimed ₹ 50,00,000/- (Rupees fifty lacs only) along with interest at the rate of 24% per annum. The claimants also claimed ₹ 1,00,000/- (Rupees one lac only) for consortium, ₹ 5,00,000/- (Rupees five lac only) for loss of love and affection and ₹ 25,000/- (Rupees twenty five thousand only) towards funeral expenses.

The owner, the driver and the insurance company of the offending vehicle appeared before learned Tribunal and filed their respective replies. The owner and the driver alleged that the offending vehicle was falsely implicated in the accident in question alleged by the claimants. It was denied that Sakattar Singh (since deceased) was earning ₹ 21,500/- (Rupees twenty one thousand and five hundred only) per month. They prayed for dismissal of the claim petition.

The appellant/insurance company averred that Sakattar Singh son of Dalip Singh was not driving the offending car at the time of accident and he (Sakattar Singh s/o of Dalip Singh) was not holding a valid driving licence. The monthly income of Sakattar Singh (since deceased) was also denied.

From the pleadings of the parties, the following issues were framed:-

1. Whether Sakattar Singh, respondent No.2 drove car bearing registration No.PB-02-BK-0827, rashly or negligently and at a high speed on 08.12.2013 at about 6:00 P.M in the area of Naushehra Pannuan, Near Government School, Tarn Taran and caused accident resulting in the death of Sakattar Singh son of Karam Singh? OPP.

2. Whether claimants are entitled to get compensation, if so, how much and from whom?OPP.

3. Whether respondent No.1 Sakattar Singh was not

having a valid driving licence? OPR3.

4. Relief.

Issue Nos.1 and 2 were discussed jointly by the learned Tribunal. On the basis of the material available on record, both the issues were decided in favour of the claimants. It was held that Sakattar Singh son of Dalip Singh drove offending car rashly or negligently, at a high speed and caused accident with motorcycle which was being occupied by Sakattar Singh (since deceased). It was further held that Sakattar Singh (since deceased) aged about 35 years was earning ₹ 10,000/- (Rupees ten thousand only) per month. ₹ 5,000/- (Rupees five thousand only) were added in the monthly income of Sakattar Singh (since deceased) as future prospects and out of ₹ 15,000/- (Rupees fifteen thousand only) 1/4th monthly income was deducted towards the personal and living expenses of Sakattar Singh. Monthly dependency of the claimants was assessed as ₹ 11,250/- (Rupees Eleven thousand two hundred and fifty only). A multiplier of 16 was applied, therefore, the total dependency was assessed as ₹ 21,60,000/- (Rupees twenty one lacs and sixty thousand only). The widow of Sakattar Singh was awarded ₹ 1,00,000/- (Rupees One lac only) towards loss of consortium. The three minor children of Sakattar Singh were further awarded ₹ 1,00,000/- (Rupees one lac only) for loss of care and guidance. ₹ 25,000/- (Rupees Twenty five thousand only) were further awarded to the claimants for funeral expenses of Sakattar Singh (since deceased) and hence, the total amount awarded was ₹ 23,85,000/- (Rupees Twenty three lacs and Eighty five thousand only) along with interest at the rate of 6% per annum from the date of filing of the petition till its realization.

Issue No.3 was decided against the appellant/ Insurance Company.

To deal with the first argument of learned counsel for the appellant, the reference can be made to para no.20 of the impugned Award passed by learned Tribunal. To substantiate the fact that Sakattar Singh (since deceased) was working with Raj Tent House, the claimants examined Raj Kumar Chawla, Proprietor of Raj Tent House as CW-1. He deposed on oath that Sakattar Singh (since deceased) was working at his tent house at the monthly salary of ₹ 11,500/- (Rupees Eleven thousand and five hundred only) per month. He also deposed that in addition to his job at the tent house, Sakattar Singh (since deceased) was also doing part time job of light and sound and was earning ₹ 10,000/- (Rupees Ten thousand only) per month from that avocation. In support of his deposition, he also placed on record the salary certificate Ex.C-1 of Sakattar Singh. It is apposite to mention here that the said Raj Kumar Chawla was also summoned by the appellant-Insurance Company as RW-1 while leading its evidence and at that time he brought his income tax returns Ex.R-1 to R-3. In the income tax returns, it was not mentioned that Sakattar

Singh (since deceased) was working at his Tent house. During dictation of the present order, learned counsel for the appellant points out that during cross-examination of Raj Kumar Chawla, when appeared for the respondent side he fairly admitted that there was no record of the salary of Sakattar Singh (since deceased). He further admitted that in the income tax returns the salary of Sakattar Singh (since deceased) was not shown. However, the perusal of running page 28 internal page 12 of the impugned Award would show that Raj Kumar Chawla in his examination-in-chief specifically deposed that Sakattar Singh (since deceased) was working on his tent house. Even the claimant during the inquiry/trial before learned Tribunal had specifically deposed that Sakattar Singh (since deceased) was working with Raj Tent House owned by Raj Kumar Chawla and getting a salary of ₹ 11,500/-(Rupees Eleven thousand and five hundred only). It was also deposed that in addition to the salary, he was also earning ₹ 10,000/-(Rupees Ten thousand only) per month from the additional job of light and sound. Devinder Singh (CW-2) also deposed regarding the said facts. Though the learned Tribunal has not accepted the deposition of the claimants' witnesses that Sakattar Singh (since deceased) was earning ₹ 10,000/- (Rupees ten thousand only) from the additional work of light and sound however, it was held that Sakattar Singh (since deceased) was getting a salary of ₹ 10,000/- (Rupees Ten thousand only) per month from Raj Kumar Chawla. This Court has no reason to interfere with the findings recorded by learned Tribunal in this regard. Even otherwise, it has also come on record that Sakattar Singh (since deceased) in addition to himself was maintaining five claimants. It further strengthens the case set up by the claimants that Sakattar Singh (since deceased) was earning more than ₹ 10,000/- (Rupees Ten thousand only) per month, therefore, there is no force in the first argument of the learned counsel for the appellant and the same is hereby rejected.

The further argument of the learned counsel for the appellant with regard to grant of the future prospects to the claimants is also liable to be rejected in view of the latest judgment of 3-Judge Bench of Hon'ble the Supreme Court in the matter of **Munna Lal Jain and Anr.** vs. **Vipin Kumar Sharma & Ors., 2015(5) JT 1 (Supreme Court).** The reference can also be made to **Asha Verman & Ors.** vs. **Maharaj Singh & Ors.** **Civil Appeal No.3211-3212 of 2015** arising out of **SLP No.1668-1669 of 2014 reported in 2015 ACJ 1286** and **Kanhsingh & Anr.** vs. **Tukaram & Ors.,2015(1) RCR (Civil) 613.** In the matter of **Munna Lal Jain**'s case (supra), Hon'ble the Supreme Court while calculating the amount of compensation to the dependents of the deceased had awarded the appropriate amount under the head of 'future prospects'.

Learned counsel for the appellant had raised issue that while deciding **Munna Lal Jain**'s case (supra) Hon'ble the Supreme Court had not posed the question with regard to the future prospects which issue has already been referred to the larger bench of Hon'ble the Supreme Court.

It is correct that the issue regarding 'future prospects' has been referred to the larger bench by 2-Judge Bench of Hon'ble the Supreme Court in the matter of **National Insurance Company Ltd.** vs. **Pushpa and Others,** Special Leave to Appeal No.8058 of 2014 Decided on 02.07.2014 but **Munna Lal Jain's** case(supra) is of later date. Hon'ble the 3-Judge Bench while deciding the **Munna Lal Jain**'s case (supra) have considered the future prospects while calculating the Award. Therefore, this Court does not deem it fit to frazzle the well-reasoned Award passed by the learned Tribunal taking into account the future prospects while awarding the appropriate compensation to the claimants.

No other point has been urged.

Dismissed.

The statutory amount of ₹ 25,000/- (Rupees Twenty five thousand only) deposited with the office of this Court be remitted to the learned Tribunal for disbursement to the claimants as per norms.

July 14, 2015 **(Naresh Kumar Sanghi)**
seema **Judge**