

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

**CM No.9277-CII of 2015
in/ and FAO No.3097 of 2015 (O&M)
Date of decision: 06.05.2015**

Reliance General Insurance Company Ltd.

..... Appellant

versus

Smt.Fulapatiya Devi and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Subhash Goyal, Advocate for the appellant

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J.

CM No.9277-CII of 2015

This application has been filed for condonation of delay of 16 days in filing the appeal. The application is accompanied by an affidavit. For the reasons mentioned therein, it is allowed and 16 days delay in filing the appeal stands condoned.

FAO No.3097 of 2015 (O&M)

The Insurance company has filed this appeal against the award dated 16.12.2014, passed by the Motor Accident Claims Tribunal, SAS Nagar Mohali (for short, 'the Tribunal). In this case, deceased Manager Yadav, 22 years old labourer, was going from Dera Bassi to Mubarikpur on his motorcycle bearing Registration

Number PB-65N-4008 on 6.4.2012 at about 7.15 a.m. Munna Yadav was following him on a separate motorcycle. When they reached near Rangi Estates near Truck Union Dera Bassi on the road to the side of bridge towards Mubarikpur, a truck bearing Registration Number HR-37A-0462 driven in a rash and negligent manner by respondent Samtosh came at a high speed from behind and struck against the motorcycle. As a result of the accident, Manager Yadav died. An FIR No.52 dated 6.4.2012 under Sections 279 and 304-A IPC was registered on the statement of Munna Yadav. Manager Yadav was a labourer. The Tribunal assessed the income of the deceased as Rs.5200/- per month, treating him to be unskilled labourer. 50% income was added on account of future prospects and multiplier of 17 was applied as per age of the deceased. The amount was calculated as Rs.7,95,000/- and Rs.25000/- was also awarded as funeral expenses. Total compensation of Rs.8,20,000/- was awarded along with interest @ 6% per annum from the date of filing the claim petition till its realization.

I have heard learned counsel for the appellant and have also carefully gone through the file.

Learned counsel for the appellant has argued that in this case, the FIR was registered against unknown driver. However, it is not denied that during investigation, it was found that Samtosh -respondent was driving the said truck and he was accordingly challaned and that Samtosh is now facing the trial before the Magistrate. If the vehicle number is not mentioned in the FIR or the

name of the driver is not mentioned, it does not mean that during the investigation, the culprit cannot be found. Therefore, this plea is without any force.

Learned counsel for the appellant has further argued that in this case, the multiplier as per the age of deceased has been applied and that the future prospects have also wrongly been considered. It has been argued that matter regarding future prospects of non-salaried person has been referred to a larger Bench of the Apex Court and is pending decision. However, the authority of Rajesh and others v Rajbir Singh and others, 2012 ACJ 1403 (SC) applied by the Tribunal has not been set aside so far. Therefore, no fault can be found with the view of the Tribunal adding 50% income on account of future prospectus.

Similarly, authority in the case of Sarla Verma and others v. Delhi Transport Corporation and others, 2009 ACJ 1298 (SC), referred to by the Tribunal, the multiplier as mentioned in the said authority is to be applied. Therefore, there is no error in the findings recorded by the Tribunal.

Accordingly, I do not find any merit in the appeal and the same is dismissed.

06.05.2015
gk

(Kuldip Singh)
Judge