

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

**FAO NO. 3182 OF 2015 (O&M)
DECIDED ON : 07.05.2015**

**New India Assurance Company Limited
...Appellant**

versus

**Saroj Devi and others
...Respondents**

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. R. C. Kapoor, Advocate.

K. C. PURI, J. (ORAL)

New India Assurance Company Limited-insurer of vehicle No. PB-11-AE-0084 has directed this appeal against the award dated 13.02.2015 passed by Ms.Anshul Berry, Motor Accident Claims Tribunal, Patiala, vide which the claim petition preferred by the claimants was partly accepted and a sum of ₹11,78,000/- was allowed in favour of the claimants.

Learned counsel for the appellant has challenged the above mentioned Award on two grounds : firstly, that the claimants have failed to prove that Anil Chhabra was driving the offending vehicle. It is submitted that from the perusal of police record, it is revealed that Harvinder Singh son of Jagjit Singh was driving the vehicle in question and charge sheet has been framed

against him. Secondly, that negligence of Anil Chhabra is not proved, so the Insurance Company has to indemnify the owner and as such, the Insurance Company is not liable to pay the compensation.

I have considered the said submissions but do not find any force in the same.

The case of the claimants from the very beginning is that Anil Chhabra was driving the vehicle and the accident has taken place due to his fault. Mere fact that charge sheet has been framed against Harvinder Singh is not a ground to discard the claim of the claimants. From the perusal of memo of appearance, itself, the matter has become clear that Anil Chhabra is the proprietor of M/s Click Technologies. It is not out of place to mention here that Anil Chhabra is the proprietor of M/s Click Technologies and the address of Harvinder Singh has been given of the said firm. It so seems that Anil Chhabra, owner of the firm, in order to avoid himself from facing the trial, has entangled Harvinder Singh in the FIR in question. So, the contention raised by learned counsel for the appellant is meritless and needs to be rejected.

The next contention raised by learned counsel for the appellant is that the deceased was merely a labourer and as such, an amount of ₹6000/- has been wrongly calculated. It is further submitted that 30% increase has been wrongly allowed by the Tribunal. The deceased was a permanent employee and as

such, 30% increase should not have been allowed. It is further submitted that the matter regarding grant of future prospects is pending before the larger Bench of Hon'ble Apex Court.

I have considered the said submissions but do not find any force in the same.

The deceased was 40 years of age at the time of accident and as such, future prospects to the extent of 30% are available in view of authority "***Rajesh and others v. Rajbir Singh and others***" 2012 (2) Apex Court Judgments 245 (SC). Mere fact that matter is pending before the larger Bench is not a ground to withheld the future prospects. This aspect has already been dealt with by this Court in ***FAO No. 3903 of 2012 decided on 15.01.2014 titled as "Balbir Kaur and others vs. State of Haryana and others"***, and it was held by this court that view taken in ***Rajesh and others' case (supra)*** is more probable and as such, the said authority has been followed by this court.

The amount of ₹6000/- taken as monthly income of the deceased cannot be said to be on higher side in view of the price index of the year 2013.

No other point has been urged before me.

Consequently, the appeal is without any merit and the same stands dismissed in limni.

MAY 07, 2015
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(K. C. PURI)
JUDGE