

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3258 of 2015 (O&M)
Date of decision 11.05. 2015.

United India Insurance Company Limited
..... Appellant.

versus

Taljinder Kaur and others
..... Respondents.

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

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

Present : Mr. Harsh Aggarwal, Advocate for the appellant.

K.C.PURI, J.

This is an appeal directed by United India Insurance Company Private Limited against the Award dated 06.02.2015 passed by Smt Jaswinder Sheemar, Motor Accident Claims Tribunal, SAS Nagar Mohali vide which the claim petition has been accepted and a sum of Rs.29,45,250/- as compensation has been allowed.

2. Briefly stated, case of the claimants is that on 27.11.2013 deceased was going from Mullanpur to his native village Boothgarh on motorcycle bearing registration No.PB-65-W-2173 followed by Harpreet Singh. At about 9.15pm, when the motorcycle driven by deceased reached in front of Gate of Omax Company, in the meantime one Mahindera Max

Pick-up bearing registration No.HP-19-A-6742 being driven by respondent No.1 in a rash and negligent manner without blowing horn came on its wrong side and struck against the motorcycle of the deceased. Resultantly deceased fell down on the road and received fatal injuries. Therefore, claimants prayed for compensation to the tune of Rs.50,00,000/-.

3. On put to notice respondent No.1 filed written statement and averred that no such accident had happened with the vehicle of respondent No.1 and that he has a valid licence. The vehicle in question was insured with respondent No.3.

4. Respondent No.2 filed separate written statement and took up preliminary objection regarding maintainability of the claim petition. On merits, respondent No.2 alleged that previously Gurdev Singh respondent No.2 was the owner of the offending vehicle, which was sold by him to one Amarjit Singh and deliver him possession of the vehicle along with documents. Affidavits in this regard were duly signed and notarized were executed by the seller Gurdev Singh and the purchaser Amarjit Singh. Amarjit Singh has further sold the vehicle to Rajiv Kumar and now the offending vehicle is in possession of Rajiv Kumar, who was the owner of the vehicle at the time of alleged accident. Therefore, in such circumstances accident was not in the knowledge of respondent No.2. The vehicle was insured with respondent No.3 at the time of accident. The fact of rash and negligent driving by respondent No.1 at the time of accident has been denied by respondent No.2.

5. Respondent No.3 Insurance Company by way of separate

written statement took preliminary objections regarding maintainability, nonjoinder and misjoinder of necessary parties ; respondent No.1 was not having valid and effective registration certificate, route permit, fitness certificate, road tax etc ; respondent No.1 Lekh Raj was not holding a valid driving licence and therefore had violated the terms and conditions of the policy of Insurance. On merits, respondent No.3 denied all the averments and prayed for dismissal of the petition.

6. Respondent Nos.4 and 5 did not appear despite service. They were ordered to proceed against ex-parte.

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

1. Whether Sukhdev Singh died in a road side accident caused by respondent No.1 while driving Mahindra Pick-up No.HP-19-A-6742 in a rash and negligent manner OPC
2. Whether the claim petition is not maintainable?OPR
3. Whether the claimants are entitled to receive compensation as prayed for, if so to what extent and from whom OPC
4. Whether the respondent No.1 being driver of the above said vehicle was not holding a valid and effecting driving license, route permit at the time of accident ? OPR-3
5. Whether the respondent No.2 had committed breach of terms and conditions of the Insurance policy, if so, its effect ? OPR-3
6. Relief.

8. Claimant in order to prove its case examined Harpreet Singh as PW1 and claimant Taljinder Kaur herself appeared as PW-2 and also examined Babu Lal as PW-3 and closed the evidence. On the other hand,

respondents examined Gurdev Singh as RW-1 and after tendering certain documents and closed the evidence.

9. The learned Tribunal after appraisal of the evidence accepted the claim petition and allowed a sum of Rs.29,45,250/-. Income of the deceased was assessed as Rs.15,500/- per month and 30% of the income was added in respect of future prospectus and 1/4th amount was deducted in respect of personal expenses. The multiplier of 15 was applied. In this manner, the amount calculated was $\text{Rs.}181350 \times 15 = \text{Rs.}27,20,250/-$ along with Rs.1,00,000/- as consortium; Rs.1,00,000/- for loss of love and care to minor and Rs.25,000/- on account of funeral and transportation etc. total an amount of Rs.29,45,250/- have been awarded. The said award has been challenged before this Court.

10. I have heard learned counsel for the Insurance Company and have gone through the paper book.

11. Learned counsel for the appellant has challenged the award on the ground of quantum. It is submitted that the income of the deceased Rs.15,500/- has been taken on higher side. It is further submitted that future prospects cannot be granted as matter regarding future prospects is pending before Larger Bench in Hon'ble the Apex Court. The deceased was not a Government employee and as such authority **Rajesh and others vs Rajbir Singh and others reported in 2013 (3) RCR (Civil) page 170** is not applicable.

12. I have carefully considered the said submission but do not find any force in the said submission.

13. The income of the deceased has been proved by bringing salary certificate. Future prospectus has to be allowed in respect of fixed salaried person or self employed person in view of authority **Rajesh and others' case (supra)**. The fact regarding future prospectus in respect of self employed person or fixed salaried person has been considered by this Court in authority **Balbir Kaur and others vs. State of Haryana and others (FAO No.3903 of 2012 decided on January 15th, 2014)** and the ratio of judgment in **Rajesh's case (supra)** has been followed by this Court in the said case. So, in these circumstances, I have no hesitation in holding that claimants are also entitled to claim amount in respect of future prospects of deceased. 1/4th amount has been rightly deducted in respect of personal expenses. The multiplier of 15 at the age of deceased cannot be said to be on higher side. Rs.1,00,000/- has been awarded in respect of consortium to widow and another sum of Rs.1,00,000/- on account of love and care to the minors and Rs.25,000/- on account of funeral expenses have been awarded which are strictly in consonance of authority **Rajesh's case (supra)**.

14. So, there is no scope for interference in the award passed by the Tribunal. Consequently, the appeal is without any merit and the same stands dismissed in limine.

15. A copy of this judgment be sent to the trial Court for strict compliance.

(K.C.PURI)
JUDGE

May 11, 2015
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