

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3261 of 2015 (O&M)
Date of decision 11.05. 2015.

National Insurance Company

..... Appellant.

versus

Balbir Singh and others

..... Respondents.

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

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?

Present : Ms. Manjuri Nehru Kaul, Advocate for the appellant.

K.C.PURI, J.

This is an appeal directed by National Insurance Company against the Award dated 30.01.2015 passed by Shri G.S.Wadhwa, Motor Accident Claims Tribunal, Bhiwani vide which the claim petition has been partly accepted and a sum of Rs.6,31,160/- have been allowed.

2. Briefly stated Balbir Singh husband, Sandeep, Arjun and Bhim being sons of Salochna have filed claim petition under Section 163-A of the Motor Vehicles Act claiming compensation to the tune of Rs.15,00,000/- on account of death of Smt.Silochana in a motor vehicular accident. It is pleaded that on 02.06.2012 at about 6.00/6.30p.m., Smt. Silochana wife of Balbir Singh resident of Dhani Mohabbatpur District

Hisar went to the market to purchase some clothes for her nephew on a motorcycle bearing registration No.HR17A/1068 along with Ramesh son of Hetram, as her brother had come to take her in the parental home. The road was slippery due to rain and when the motorcycle reached behind Jai Bharat Gum factory, the tyre of the motorcycle slipped due to wet road and due to this, said Silochana suffered injuries on her head and other vital parts of her body. She was got admitted in V.K. Neurokendra, Hisar for treatment and she remained admitted there till 6.6.2012. Thereafter, she was shifted to Sarvodaya Hospital, Hisar but she succumbed to the injuries on 7.6.2012. DDR No.3 dated 7.6.2012 was registered at Police Station Siwani Mandi, District Bhiwani. It is alleged that Rs.1,00,000/- were spent on the treatment and Rs.75,000/- were spent on the transportation and last rites of the deceased Silochana. She was 38 years of age and was posted as helper in Aanganwari and earned Rs.2500/- per month as salary.

3. On put to notice respondents appeared and filed separate written statements. Respondent No.1 in his written statement took preliminary objections that petition is not maintainable, the claimants have no cause of action ; the petition is bad for misjoinder and nonjoinder of necessary parties. Respondent No.1 alleged that he was not at all responsible for the accident as the road was slippery due to rainy water and the tyre of the motor-cycle slipped without any fault of the answering respondent. The motor cycle in question bearing registration No. HR17A/1068 was insured with National Insurance Company.

4. Respondent No.2 filed separate written statement and alleged

that petition is not maintainable as the driver was not holding a valid driving licence, therefore, the company is not liable to pay the amount as the terms and conditions have not been fulfilled. It is further submitted that there is collusion between the claimants and respondents No.1 and 2, so the Insurance company prayed for dismissal of petition with special costs.

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

1. Whether the accident occurred on 02.06.2012 at about 6.00/6.30pm, resulting into death of Silochna wife of Balbir Singh, took place due to rash and negligent driving of respondent no.1 while driving the motorcycle bearing registration no.HR-17A/1068 ?OPP
2. If issue no.1 is proved, whether the petitioner is entitled to compensation, if so to what amount and from whom ? OPP
3. Whether the respondent no.1 was not holding a valid and effective driving licence on the date of alleged accident ? OPR-1
4. Whether the insured has violated the terms and conditions of Insurance policy ? OPR-3
5. Whether the petition is not maintainable in the present form ? OPR
6. Whether the petition is bad for nonjoinder and misjoinder of necessary parties ? OPR
7. Relief.

6. In order to prove their claims, claimant Balbir Singh himself has appeared as PW1 and also examined Dharampal as PW-2, Dr.Sandeep, Medical Officer as PW-3 and closed the evidence. On the other hand, respondents examined Ramesh Kumar as RW-1 and after tendering certain documents closed the evidence.

7. The learned Tribunal after appraisal of the evidence accepted the claim petition and allowed a sum of Rs.6,31,160/-. The income of deceased was assessed as Rs.2500/- per month and 50% 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 $\text{Rs.}2812 \times 12 \times 15 = \text{Rs.}5,06,160/-$. Another sum of Rs.1,00,000/- as consortium and Rs.25,000/- on account of last rites and transportation etc. was awarded. In this manner total amount of Rs.6,31,160/- has been awarded. The said award has been challenged by the Insurance Company before this Court.

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

9. The only point urged before this Court is regarding quantum of compensation. However, counsel for the appellant could not point out any error in calculating the amount. The Parliament in its wisdom has enacted Motor Vehicles Act to provide speedy relief to road victims. Technicalities cannot come in way to impart the justice. More amount can be granted under Section 163-A of the Motor Vehicles Act in view of various decisions of Hon'ble the Apex Court.

10. So, I see no merit in the present appeal and the same stands dismissed in limine.

11. The amount of Rs.25,000/- deposited by the appellant shall be remitted to the Tribunal for disbursement to claimants in accordance with law.

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

**(K.C.PURI)
JUDGE**

**May 11, 2015
sv**