

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

FAO No.3403 of 2015 (O&M)

The New India Assurance Company Ltd.

...Appellant

Versus

Samridh Raheja and others

...Respondents

(2)

FAO No.3404 of 2015 (O&M)

The New India Assurance Company Ltd.

...Appellant

Versus

Samridh Raheja and others

...Respondents

Date of Decision: July 02, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

INDERJIT SINGH, J.

Both the above-mentioned FAOs are taken up together for disposal being arisen from same occurrence and the points involved for determination are same.

Both the above-mentioned FAOs have been filed by The New India Assurance Company Ltd., Insurer of offending vehicle bearing registration No.PB-65M-2849 against the claimants-respondents Samridh Raheja and Rishant Raheja and respondents

Kulwant Singh, driver and M/s Empire Packagers Pvt. Ltd., owner of offending vehicle, challenging the impugned Awards dated 06.12.2014 passed by learned Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred to as 'Tribunal'), whereby compensation to tune of ₹27,38,338/- to claimants on account of death of their father Sanjeev Raheja (in MACT case No.RT-65) and ₹37,79,938/- to claimants on account of death of their mother Mridula Raheja (in MACT case No.RT-66) have been awarded along with interest @ 6% per annum, if the compensation is paid within three months and thereafter 9% per annum, from the date of filing of claim petition till realization.

The brief facts of the case are that on 30.01.2012, Sanjeev Kumar Raheja along with his wife Mridula, Bhiva alias Partiu, daughter and their son Samridh were going from Delhi to Mohali on their Lancer car bearing registration No.CH-03W-4852, driven by Sanjeev Kumar Raheja. At about 8.30 P.M., when they reached near Lucky Dhaba in front of village Janetpur, in the mean time, a Swaraj Mazda bearing registration No.PB-65M-2849 (offending vehicle) being driven by respondent-driver in a rash and negligent manner came in front of the car and suddenly driver of the offending vehicle applied brakes. Sanjeev Kumar Raheja tried his best to control his car but truck driver applied the brakes at short distance and the car struck against the backside of the offending vehicle. The occupants of the car received multiple injuries. Anil Kumar Raheja stopped his car and went to look after his family members and took the injured to Civil Hospital, Dera

Bassi where doctors declared Sanjeev Kumar Raheja and his wife Mridula, dead and other injured namely Bhiva and Samridh Raheja were referred to GMCH, Sector-32, Chandigarh. The FIR was registered on the statement of Anil Kumar Raheja. The accident was witnessed by Mukesh Kumar. The claimants claimed ₹40 lacs each in both the claim petitions.

Learned Tribunal, after going through the evidence, awarded the compensation to the claimants as stated above.

At the time of arguments, learned counsel for the appellant argued that offending vehicle has been falsely involved in this case. He further argued on the quantum of compensation by stating that excessive amount of compensation has been awarded in both the cases. He also contended that as per rules and regulations a reasonable distance is to be maintained by the driver of vehicle which is following the other vehicle. Therefore, he argued that there was also negligence on the part of the driver of the car.

After hearing learned counsel for the appellant and after going through the record, especially the record of the Tribunal, firstly, I find that driver and owner were proceeded against ex parte and then they appeared before the Tribunal and were allowed to join the proceedings on 09.05.2014, giving them right to examine their witnesses for the purpose of showing innocence of respondent-driver and for the purpose of showing that respondent-driver and owner were having valid documents to ward off their liability towards the compensation claimed. The Insurance Company filed written

statement stating therein that there is collusion between claimants and respondents No.1 and 2 and denied that any such accident has taken place.

The perusal of the record shows the claimant's examined Anil Kumar Raheja as PW-1, who got registered the FIR. The FIR has been got registered on the same date just within three hours of the accident, which means that it was registered immediately. Ashwani Kumar Raheja is the eye witness to the accident, who also took the injured to the hospital etc. PW-2 Mukesh Kumar is the eye witness, who identified the driver of the offending vehicle. In the FIR, the number of vehicle has not been mentioned. On this point, learned counsel for the appellant argued that the offending vehicle has been falsely involved in the claim petitions. Claimant's also examined PW-4 Ms.Shilpa, Addl. Ahlmad of the Court of SDJM, Dera Bassi, who proved that challan has been presented against Kulwant Singh driver of the offending vehicle.

The perusal of statements of PW-1 and PW-2 shows that there is nothing on the record to disbelieve their statements. There is no cogent evidence on record to prove any collusion between the driver and owner with the claimants. The criminal case is going on against the driver. There is nothing on the record to show that any representation or complaint has been filed for falsely involving the vehicle in question and also for falsely involving Kulwant Singh in a criminal case. Though RW-1 Kulwant Singh appeared as respondent-witness. He admitted the accident with his vehicle but he stated that

the car firstly struck with some other vehicle and then hit his vehicle which was already parked far away from the road. The version of the RW-1 Kulwant Singh is not supported and corroborated by any documentary or oral evidence. Therefore, the version of RW-1 cannot be believed. Moreover, no written statement has been filed by driver and owner as they were proceeded against ex parte and later on they were only allowed to join the proceedings. There is nothing on the record to show that proper distance was not maintained by deceased Sanjeev Kumar Raheja while driving the car. The case of the eye witness is that the driver of the offending vehicle applied the brakes suddenly, despite the efforts made by Sanjeev Kumar Raheja as he could not stop his vehicle and struck his car in the offending vehicle.

From the evidence, I find that findings given by the Tribunal on issue No.1 are correct and as per law. Deceased Sanjeev Kumar Raheja and Mridula Raheja died in a road accident caused due to rash and negligent driving of offending vehicle by its driver.

Learned counsel for the appellant further argued that excess compensation has been awarded. I have gone through the record. As per the evidence, both the deceased were running business of restaurants near Chandigarh. Income tax returns have been produced on the record and the Tribunal has taken the income as per the income tax returns as admitted at the time of arguments. Learned counsel for the appellant argued that the income should have been taken on lower side for their personal contribution. In the case of claim petition regarding Sanjeev Kumar Raheja, his annual income

has been assessed @ ₹2,80,000/- as per income tax return for the assessment year 2012-13. In no way, the assessment of annual income can be held as incorrect or excessive. In this way, the income per months comes to be less than ₹25,000/- per month. Even a Government Clerk earns more than ₹25,000/- per month.

As regarding the second case, the income of Mridula Raheja was also assessed by the Tribunal on the basis of income tax return filed by her. She was also running a business of restaurants etc. as per the income tax return and the annual income has been assessed @ ₹3,91,600/-. Therefore, the income assess on the basis of income tax returns cannot be held as excessive.

In view of above discussion, I find that the findings given by the Tribunal are correct, as per law and do not require any interference from this Court and the same are upheld.

Therefore, finding no merit in both the above-stated FAOs, the same are dismissed.

July 02, 2015
Vgulati

(INDERJIT SINGH)
JUDGE