

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

1. F.A.O No. 3764 of 2015

National Insurance Co. Ltd. ...Appellant

versus

Lalita and others ...Respondent

2. F.A.O No. 3765 of 2015

National Insurance Co. Ltd. ...Appellant

versus

Raju and others ...Respondents

3. F.A.O No. 3769 of 2015

National Insurance Co. Ltd. ...Appellant

versus

Kreshni Devi and others ...Respondent

Date of decision : 28.05.2015

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suvir Dewan, Advocate
for the appellant

Mr. Ram Kumar Saini, Advocate
for the caveator

RITU BAHRI , J. (Oral)

This order of mine shall dispose of the above three appeals

i.e F.A.O Nos. 3764, 3765 and 3769 of 2015 wherein challenge is to the award dated 16.01.2015 passed by learned Motor Accident Claims Tribunal, Kurukshetra granting compensation to the respondents. However, for the facility of reference, the facts are being taken from F.A.O No. 3764 of 2015.

Brief facts of the case are that on 01.07.2013, Binder (since deceased) along with Raju son of Devi Chand had proceeded from Indri to Ladwa on motorcycle bearing registration No. HR-05-M-0479 being driver by Binder at a moderate speed. He was followed by Sharandass and Nar Singh on their separate motorcycle. When they reached near Bhadson Chown, Indri, the offending truck/dumper bearing registration No. HR-58-A-5675 being driven by its driver Sukhbir Singh-respondent No. 2 in a rash and negligent manner came from behind and hit the motorcycle of Binder from behind. Binder and Raju fell down on the road along with motorcycle. Binder was dragged with the offending truck/dumper and received fatal injuries and died at the spot, whereas Raju received serious and grievous injuries. Respondent No. 2 ran away from the spot after leaving the truck/dumper at the spot. A criminal case was registered against respondent No. 1 for causing accident. Satish-respondent No. 3 is the owner of the truck. Accordingly, the liability was fixed upon the

respondent Nos. 2 and 3 and the present appellant jointly and severally to pay compensation to the victims.

Thereafter, Lalita (widow of deceased Binder), Kreshni Devi and Bachna (parents of deceased Binder) and Raju (Injured) filed their claim petition separately. On notice of the claim petition, respondent Nos. 2 and 3 appeared and filed their separate written statement and denied the fact of accident which took place on 01.07.2013. However, it was admitted that the driver was a trained driver and was having a valid and effective driving licence at the time of the accident. The present appellant filed its separate written statement and stated that Lalita had remarried after death of Binder and is not residing in the village Mehra and at present, she is residing in village Ramnagar and is thus, not entitled to claim compensation. Further it has been stated that no accident had occurred with truck bearing registration No. HR-58-A-5675 and a false FIR was got registered in connivance with respondent Nos. 2 and 3 as well as in collusion with the police to get false claim.

The learned Tribunal vide its award dated 16.01.2015 held that Lalita, Kreshni Devi and Bachna are entitled to receive a sum of Rs.16,41,800/- as compensation whereas Raju is entitled to receive a sum of Rs.2,40,137/- which shall carry interest @7.5% per annum from

the date of petitions till actual realization. Claimant Lalita was held to entitle to receive half of the total compensation and remaining shall be shared by Kreshni Devi and Bachna equally. Further, Lalita and Kreshni Devi and another were held to be entitled to received a sum Rs.1,00,000/- each in cash to tide over financial difficulty whereas remaining shall be deposited in any nationalized bank in shape of FDRs for a period of two years.

Learned counsel for the appellant has argued that the tribuanl had applied the judgment of ***Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54*** to calculate the compensation admissible to the claimants and added 50% of the income to the assessed income of the deceased towards future prospects. The above said judgment has been referred to larger Bench by Hon'ble the Supreme Court on the issue of addition of income towards future prospects in the case of self employed persons in the case of National Insurance Company Ltd v. Pushpa and others, in SLP © CC No. 8058 of 2014

This argument of learned counsel is liable to be rejected as at the time of referring the matter to larger Bench, the compensation beyond Rs.20 lacs has been stayed and since the issue is pending for consideration before the larger Bench, the award passed by the

tribunal does not require any interference by this Court. The tribunal has calculated the compensation as below:-

Monthly Income:- Rs.9075/- per month

Annual Income:- Rs.9075X12=Rs1,08,900/-

Less 1/3rd on account
of personal expenses:- 1,08,900/-36,300=Rs.72,600/-

Annual dependency :- Rs.72,600/-

By applying the multiplier of 18, the compensation was calculated to be Rs.13,06,800/- and by applying the Rajesh's judgment, one lac was awarded for loss of love and affection and loss of consortium to Lalita. Kreshni Devi and Bachna were also awarded a sum of Rs.1 lac each for loss of love and affection. Rs.25,000/- were awarded on account of funeral expenses and Rs.10,000/- were awarded on account of transportation charges. The total compensation comes to Rs.16,41,800/-

In the petition filed by Raju, he was awarded Rs.2,40,137/- as he received multiple injuries on various parts of his body including head injury as well as fracture of ribs and he remained admitted in hospital from 01.07.2013 to 17.07.2013. He was operated during this period. A sum of Rs.1,20,000/- have already been spent on medicines, medical equipment's, transportation and special diet etc. He was doing

labour work and was earning Rs.10,000/- per month and now has become permanently crippled and is not able to do any work and further his marriage prospects have diminished.

The award dated 16.01.2015 passed by learned Motor Accident Claims Tribunal, Kurukshetra does not require any interference by this Court.

The appeals are dismissed.

28.05.2015

G Arora

(RITU BAHRI)
JUDGE