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

**FAO NO. 3993 OF 2015 (O&M)**
**DECIDED ON : 03.07.2015**

**Reliance General Insurance Company Limited**

**...Appellant**

**versus**

**Manju Bala and others**

**...Respondents**

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

Present : Mr. R. K. Bishamboo, Advocate.

***K. C. PURI, J.***

The instant appeal has been preferred by the Insurance Company against the Award dated 18.02.2015 passed by Shri Naresh Kumar, Motor Accident Claims Tribunal, Narnaul, vide which four set of claim petitions were decided together vide common Award as the same have arisen out of the common accident.

Brief facts of the case as set forth in all the four claim petitions arising out of the same accident were decided vide common Award. It was alleged in all the claim petitions that on 19.05.2013, the injured as well as deceased were occupants of three-wheeler bearing registration No. HR-66A-0561 and they were coming to Narnaul from village Bhankari. The driver of the three-wheeler namely Kailash Chand was driving the three-wheeler at a high speed and in a rash and negligent manner. At around 9.30 PM, when the three-wheeler reached the petrol pump, Gehli, the driver of the offending vehicle hit the same in a motorcycle due to which the motorcyclist fell down and the occupants of the three-wheeler also received multiple and grevious inujuries. All of them were shifted to Civil Hospital, Narnaul. The accident was witnesses by Munshi Ram, Ram Kishan who were also the occupants of said three-wheeler. FIR No. 120 dated 19.05.2013 was also recorded in this regard.

Shanti Devi filed claim petition No.10 of 07.08.2013 titled as, ***"Shanti vs. Parveen Kumar and others"***. Ram Kishore filed claim petition No. 09 of 2013 titled as, ***"Ram Kishore vs Parveen Kumar and others"***. Sunita Devi, Mushi Ram, Babita and Yogesh Yadav filed claim petition No.61 of 2013 titled as, ***"Sunita Devi and others vs Kailash Chand and others"***. Manju Bala and another filed claim petition No. 64 of 2013 titled as, ***"Manju Bala and another vs Kaialsh Chand and others"***.

On put to notice, the defendants i.e driver and owner of the offending vehicle appeared and filed written statement taking preliminary objections regarding maintainability; locus-standi. On merits, it was pleaded that no accident took place and false case has been registered in collusion with the police.

Respondent-Insurance company appeared and file separate written statement taking preliminary objections of maintainability; cause of action denying the age, income, injuries and avocation of the injured and the deceased. It was further pleaded that the driver was not holding valid and effective driving license.

Replication was not filed. From the pleadings of parties, following issues were framed :-

1) Whether the motor vehicle accident which took place on 19.05.2013 at about 2.30 PM in the area of Gehli Petrol Pump, Narnaul-Hasanpur Road, caused on account of rash and negligent driving of vehicle bearing registration No. HR-66-A-0561 by respondent No.1 resulting into death of Baldev and injuries of Ram Kishore and Shanti Devi ? OPP

2) If Issue No.1 is proved, then what amount of compensation the petitioners are entitled to and from whom ? OPP

3) Whether the respondent No.1 was not holding a valid and effective driving license at the time of accident ? OPR

4) Whether the respondents have violated the terms and conditions of insurance policy ? OPR

5) Whether the insurer is liable to indemnify the liability of insured? OPR

6) Whether the petitions are not maintainable in the present form ? OPR

7) Whether the petitioners have no cause of action to file the present petitions ? OPR

8) Relief.

The learned Tribunal after adjudication, allowed all the claim petitions with costs. Now the Insurance Company has preferred the instant appeal.

I have heard learned counsel for the appellant and have gone through the records of the case.

Learned counsel for the appellant has contended that amount of compensation awarded in respect of death of Baldev Yadav is on higher side. It is further submitted that the deceased's family was receiving financial benefit/pension from the employer. The said amount should have been deducted from the amount awarded by the Tribunal as compensation.

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

According to the evidence produced on file, Baldev Yadav (deceased) was drawing a salary of ₹26,481/- as per salary certificate Exhibit PW1/A. Pw-1 Kushal Kumar further deposed that the deceased was drawing net salary of ₹24,222/- after deductions. The Tribunal has assessed the income of deceased as ₹24,000/- per month by rounding it off. 1/3rd amount was deducted in respect of personal expenses and as such, the monthly dependency was calculated as ₹16,000/-. The annual dependency was calculated as ₹1,92,000/- (16000 x 12). The age of deceased was taken as 28 years and the multiplier of 14 was applied by the Tribunal. In this manner, a sum of ₹26,88,000/- was allowed as compensation (1,92,000 x 14). The Tribunal has allowed another sum of ₹20,000/- on account of transportation and last rites of the deceased. The widow was also held entitle to claim ₹1,00,000/- in respect of consortium and another sum of ₹30,000/- towards love and affection. In this manner, the claimants as well as respondent No.4 were held entitle to claim ₹28,38,000/- as compensation in respect of loss of income, love and affection, pain, suffering and companionship.

During the course of arguments, the only point urged by learned counsel for the appellants is regarding reduction in the amount of compensation. However, from the perusal of case file, it is revealed that no case for reduction in the amount of compensation is made out. The deceased was a permanent employee of central government. The salary proved on record was ₹26,481/- and the Tribunal has taken his monthly income as ₹24,000/- for computation. The Tribunal has taken the net salary for computing the amount of compensation which exercise was wrong. The whole of salary is required to be taken into account. The deceased was a permanent employee and future prospects should have been taken into account by the Tribunal. But in spite of all these facts, the Insurance Company has still filed the appeal. The amount of ₹1,00,000/- granted in respect of consortium to the widow is strictly in consonance with authority ***"Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC).*** The amount granted in respect of loss of love and affections is to the extent of ₹30,000/- only whereas in ***Rajesh and others' case (supra)***, the amount awarded in this respect was ₹1,00,000/-. Strange enough still Insurance Company has preferred the appeal for reduction in the amount of compensation.

So, in view of the above discussion, no ground for interference by this Court is made out. Consequently, the appeal is without any merit and the same stands dismissed.

The Parliament in its own wisdom has enacted the Motor Vehicles Act for granting speedy relief to the road accident victims. It was amended in the year 1988 and the act was made more friendly to the road accident victims. The law of limitation which was earlier applicable to the claim petitions before the year 1988 was abolished. The amount under "no fault liability" was also enhanced. The insurance of the vehicle qua third party was made compulsory and the underline idea was to provide speedy relief to the road accident victims. The amount of premium is being increased by the insurance companies from time to time to provide the amount of compensation to the road accident victims at the earliest. Prior to amendment of Motor Vehicles Act, 1939, the liability to pay compensation by insurance companies in respect of third party was limited in most of the cases except where the liability was made unlimited by paying extra premium. However, after the amendment of Act in the year 1988, in most of the cases, the liability to third party is made unlimited.

While sitting in roster of deciding appeals against the Awards passed by the Tribunal, it is found that the insurance companies are filing appeals in each and every case to avoid their liability. The very idea of legislation in providing speedy relief to the road accident victims is being frustrated.

The purpose of insurance of the vehicle is to provide compensation to the road accident victims at the earliest. Heavy premium is being charged by the insurance companies for that purpose. The insurance companies should come forward immediately to provide compensation to the road accident victims when the fact of accident is brought to its knowledge. However, the insurance companies never take initiative to provide compensation to the road accident victims at the threshold. So, invariably the road accident victims have to file claim petitions. In some of the cases, the victims are so much deprived persons of the society that they are unable to know about the legal remedies and as such, their grievances for getting compensation are not redressed.

Even after filing the claim petition, the insurance companies contest the same on various frivolous grounds including the absence of driving license, route permit etc, although the said documents are brought to the notice of insurance companies. In this manner, huge number of cases are piled up before the courts as the insurance companies fail to redress the grievances of the road accident victims at the threshold. When the victim files claim petition, the insurance company should have settled the claim in the court itself by proposing compensation in accordance with settled principles of law and the law laid down by the higher courts. The Tribunals have to adjudicate each and every case on account of the conduct of the insurance companies.

The Parliament in its own wisdom in order to provide relief to the road accident victims, has allowed the private insurance companies to come forward and insure the vehicle so as to provide speedy relief to the road accident victims. The private insurance companies seems to be more worried about its profits than to provide relief to the road accident victims for which they have been allowed to insure the vehicles.

However, the court is conscious of the fact that in some cases the parties connive in order to get false compensation from the insurance company and in those cases, the insurance company has to defend themselves, however in genuine cases, the insurance company should provide compensation to the road accident victim at the earliest. In some of the cases allegations are made against the officers of the insurance companies that they have connived with the road accident victims and that allegation may be wrong on the face of it. It so seems that the authorities of insurance companies order filing of appeals in each and every case without any exception, as they want to absolve themselves from allegations against them in those cases.

Authorities of insurance companies should act fairly, honestly and fearlessly. So, the insurance companies have to chalk out some mechanism which could be in the interest of road accident victims and at the same time which should avoid delay in disbursement of the amount of compensation. The insurance companies can constitute committees at the branch or zonal level to take decisions in respect of giving compensation to road accident victim at the early stage and also in respect of filing the appeals against awards of the Motor Accident Claims Tribunal and also in respect of deciding the claim petitions before the Tribunal. The proposals of insurance companies are solicited to over come the points mentioned above. The response of the insurance companies in this regard be called for the next date of hearing.

Notice to all the insurance companies including private insurance companies be issued in this regard for 25.08.2015. The Registry is directed to sent a copy of this order to all the insurance companies along with the notice to appear in the Court and to chalk out a strategy in the light of observations made above.

**JULY 03, 2015** **(K. C. PURI)**
shalini **JUDGE**