IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4010 of 2015 (O&M)
Date of decision 06.07. 2015.

United India Insurance Co. Ltd
...... Appellant.

versus

Manminder Singh & Ors.
...... 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 : Mr. Pardeep Goyal, Advocate for the appellant.

K.C.PURI, J.

Appellant-United India Insurance Co. Ltd has directed the present appeal against the Award dated 20.04.2015 passed by Shri Rajinder Aggarwal, Motor Accident Claims Tribunal, Patiala vide which claimants were allowed compensation to the tune of Rs.13,34,700/- along with interest @ 8% per annum from the date of claim petition till actual realization.

2. Succinctly, the facts as emanating from the record are that on 1.4.2013 deceased Tota Ram, his wife Hanso and daughter Nimo Rani on motorcycle bearing registration No. PB-28B-7884, being driven by deceased Tota Ram were going towards ward No.7 Ghagga to meet Kewa

Ram brother-in-law of the deceased. When they reached near the street, wherein house of Kewa Ram is situated and deceased had turned his motor-cycle towards the said street, the motorcycle was hit by a Alto car bearing registration No.PB-53A-8001 coming from the side of Ghagga. The accident had taken place due to rash and negligent driving of said car by respondent No.1. Due to accident, Tota Ram,. Hanso Devi and Nimo Rani had fallen down on the road and all of them suffered multiple injuries. Kewa Ram and other members of his family were waiting for Tota Ram while standing in their street and they witnessed the said accident.

3. Respondent Nos.1 to 3 in their joint written statement denied the involvement of their car in the accident in question. They pleaded that in fact injured Tota Ram and others were lying on the road with the injuries on their persons as they had been hit by some other vehicle. Respondents No. 1 and 2 were passing from the said area. When they saw deceased Tota Ram lying in injured condition, they took him to the hospital on humanitarian ground and name of respondent No.2 was mentioned in the record of the hospital also. Denying other averments respondents prayed for dismissal of the claim petition.

4. Respondent No. 4 in his separate written statement denied the involvement of the offending car in the accident and took up preliminary objection regarding claim petition being bad for nonjoinder of necessary parties. Denying other averments respondent No.4 prayed for dismissal of the claim petition.

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

1 Whether Tota Ram had died in a motor vehicular accident which took place on account of rash and negligent driving of car bearing registration No. PB-53A-8001 by respondent No.1 ? OPA

2 Whether the claimants are entitled to compensation, if so to what extent and from whom ? OPP

3 Whether respondent No.1 was not having a legal and valid driving licence at the time of alleged accident, if so its effect ? OPR No.3.

4 Whether respondent No.1 has committed breach of any other condition of the insurance policy ? OPR No.3.

5. Relief.

6. The Tribunal, after assessing the testimony of the witnesses accepted the claim petition vide award dated 20.04.2015, as aforesaid.

7. Feeling dissatisfied with the above said Award dated 20.04.2015, the United India Insurance Co. Ltd.-appellant has directed the present appeal.

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

9. Learned counsel for the appellant has challenged the Award on two grounds firstly that it is a case of contributory negligence and secondly regarding quantum of compensation.

10. Regarding contributory negligence, counsel for the appellant has submitted that deceased was driving the motor cycle in a rash and negligent manner but that argument is without any substance as PW-1

Hanso Devi and PW-2 Kewa Ram have supported the case of the claimants on all material particulars. The FIR was registered, which further lends support to the case of the claimants.

11. On the other hand, the Insurance Company has not produced any cogent evidence before the Tribunal to establish that on account of contributory negligence, accident had taken place. So, the argument advanced by the counsel for the appellant that it is a case of contributory negligence, cannot be accepted.

12. Learned counsel for the appellant has further submitted that the income of the deceased has wrongly been taken as Rs.7000/- per month as the income cannot be taken as more than Rs.3000/- per month. So, the amount awarded by the Tribunal is on higher side.

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

14. Tota Ram was working as scrap dealer. The income of deceased in the year 2013 as Rs.7000/- per month cannot be said to be on higher side. The contention of the learned counsel for the appellant that future prospectus have been wrongly taken is concerned, that submission is also without any substance. The point of future prospectors has already been settled in authority **Rajesh and others vs Rajbir Singh and others reported in 2013 (3) RCR (Civil) page 170**. So, the above said argument is also without any substance. 30% has been added in respect of future prospectus and 1/4th has been deducted in respect of personal expenses. So, the monthly dependency of the claimants comes to Rs.6825/- and annual

dependency comes to Rs.81,200/-. The multiplier of 13 is also not on higher side as the same is in consonance with authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009(3) R.C.R. (Civil) 77**. The widow-claimant-respondent has rightly been allowed Rs.1,00,000/- towards loss of consortium and claimants No.2 to 4 have been allowed Rs.1,00,000/- towards love and affection. Claimant No.5 has been allowed Rs.25,000/- towards loss of love and affection. Rs.25,000/- were allowed as funeral expenses and Rs.20,000/- were allowed towards of loss of estate. So, the amount of Rs.13,34,700/- as compensation cannot be said to be higher side on the facts of the present case. So, no ground for interferring in the appeal is made out.

15. Consequently, the appeal is without any merit and the same stands dismissed.

16. A copy of this judgment be sent to the Tribunal for strict compliance.

(K.C.PURI)
JUDGE

July 06 , 2015
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