IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4070 of 2015 (O&M)
Date of decision 09 .07. 2015.

United India Insurance Company Ltd.
...... Appellant.

versus

Meera and others
...... Respondents.

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

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? yes
2. To be referred to the Reporters or not? yes
3. Whether the judgment should be reported in the Digest? yes

Present : Mr. V.M.Gupta, Advocate and
Ms. Sonal Datta, Advocate for the appellant.

K.C.PURI, J.

United India Insurance Company Ltd. has challenged the Award dated 11.03.2015 passed by Shri Rajeev Goyal, Motor Accident Claims Tribunal, Kurukshetra vide which an amount of Rs.23,93,950/- along with interest @ 7.5% stood awarded to the claimants on an claim petition filed under Sections 140 and 166 of the Motor Vehicle Act, 1988 on account of death of Amit Kumar.

2. The facts, as put forth by the claimants, are that on 19.08.2014 Amit Kumnr, since deceased was moving from village Mandi to the side of his village Lukhi, while driving his motorcycle bearing registration No. HR-07R-4003. Sanjeev Kumar was also travelling as pillion rider on his

motorcycle. They were followed by Bhushan and Satpal on another motorcycle. Amit Kumar was driving his motorcycle at a moderate speed and his correct left hand side of the road observing traffic rules. At about 3.00pm when they reached near village Lukhi, the offending car bearing registration No.HR-09A-9717 came from opposite side at very fast speed and in a rash and negligent manner being driven by respondent No.1. After seeing the offending car, Amit Kumar lowered down the speed of his motorcycle and came on extreme left hand side of the road on kacha portion but the offending car struck against his motorcycle. As a result, Amit Kumar and his pillion rider fell down and received multiple and grievous injuries. Therefore, it is alleged that accident took place due to sole rash and negligent driving of offending car by respondent No.1. After the accident, both the injured were shifted to Apna Hospital, Kurukshertra where Sanjeev Kumar was got admitted and Amit Kumar was referred to PGI, Chandigarh and he succumbed to his injuries on the way to PGI, Chandigarh. FIR No.58 dated 19.08.2014 under Sections 279, 337 and 304-A of the IPC was registered at Police Station Jhansa against respondent No.1 on the statement of Bhushan Kumar. Therefore, the claimants have prayed for compensation to the tune of Rs.60,00,000/-.

3. On notice, respondent No. 1 appeared and filed reply and denied the averments made in the claim petition. It is alleged that no accident stated to have been taken place with car in question and a false case has been registered against the answering respondent. The car in question was insured with the United India Insurance Company Ltd. at the

time of alleged accident. Prayer for dismissal of the claim petition has been made.

4. Respondent No.2 Insurance Company filed separate written statement and alleged that respondent No.2 was not holding valid and effective driving licence at the time of alleged accident which is a breach of the terms and conditions of the insurance policy. Therefore, the answering respondent is not liable to pay the compensation amount. The vehicle in question was being driven in contravention of M.V.Act. Denying other averments, answering respondents prayed for dismissal of the claim petition.

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

1. Whether the accident resulting into death of Amit Kumar took place due to rash and negligent driving of respondent No.1, while driving Car No. HR-09A-9717 ? OPP

2. If issue No.1 is proved to what amount of compensation and from whom the claimants are entitled to ? OPP

3. Whether there was violation of terms and conditions of the insurance policy and respondent No.2 is not liable to pay any compensation ? OPR-2

4. Relief.

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

7. Feeling dissatisfied with the above said Award, the Insurance Company has directed the present appeal.

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

9. Learned counsel for United India Insurance Company has submitted that the learned Tribunal has taken the income of deceased as Rs.8100/- per month as daily wager in accordance with Daily Wages as fixed by Deputy Commissioner, Kurukshetra. It is submitted that in the absence of any other evidence, the minimum wages could have been taken into account while assessing the income of the deceased and to support this contention, learned counsel for the appellant has relied upon authority **Laxmi Devi and others vs. Baldev Singh and others reported in 2008 (4) TAC page 318**.

10. The second contention raised by the counsel for the appellant is that matter regarding future prospectus is pending before larger bench of Hon'ble Apex Court as observed in **National Insurance Co. LTD. VS. Pushpa and others in Special Leave to Appeal (C) CC No.(s) 8058 of 2014 decided on 02.07.2014**. So, the learned Tribunal has committed grave error by giving amount on account of future prospectus of the deceased.

11. I have carefully considered the said submission but do not find any force in that submission.

12. The accident had taken place in the year 2014 and the Tribunal has taken into account the daily wages fixed by Deputy Commissioner of Kurukshetra as Rs.8100/- per month. So, the Deputy Commissioner fixed the amount according to Minimum Wages Act. So, the Insurance Company cannot have any benefit from the aforesaid authorities i.e. **Laxmi Devi and**

others' case (supra) and **National Insurance Co. LTD. VS. Pushpa and others' case (supra)**. The amount has been allowed keeping in view the judgment of Hon'ble Apex Court in **Rajesh and others vs. Rajbir Singh and others reported in 2013 (3) RCR (Civil) page 170.**

13. The multiplier of 17 at the age of 27 applied by the Tribunal is strictly in accordance with authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009(3) R.C.R.(Civil) 77 (S.C.).** The Tribunal has awarded Rs.25,000/- on account of funeral expenses ; Rs.10,000/- on account of transportation charges and Rs.1,00,000/- each on account of loss of love and affection and on account of consortium to claimants. So, that amount is also given in consonance with authority **Rajesh and others' case (supra).**

14 No other point has been urged before me.

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

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

(K.C.PURI)
JUDGE

July 09 , 2015
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