

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4191 of 2015 (O&M)
Date of decision 14 .07. 2015.

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

versus

Ranjit Kaur 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. Rajesh K.Sharma, Advocate for the appellant.

K.C.PURI, J.

United India Insurance Company Ltd. has challenged the Award dated 09.04.2015 passed by Ms. Roopam Singh, learned Motor Accident Claims Tribunal, Chandigarh vide which an amount of Rs.13,09,000/- along with interest @ 7.5% stood awarded to the claimants in a claim petition filed under Section 166 of the Motor Vehicle Act, 1988 in respect of death of Sarabjeet Singh in a motor vehicular accident.

2. The facts, as put forth by the claimants, are that on 12.12.2013 Sarabjeet Singh since deceased, son of the petitioners was going from Chandigarh to Ludhiana while driving motorcycle at a moderate speed and

on the correct side of the road. He was being followed by his brother Avtar Singh on another motorcycle. At about 2.30pm, when they reached near Gurdwara Sahib, Ranwa, a Bus bearing registration No. PB-03D-8539 came from their behind. After overtaking them, the driver of the bus applied brakes all of a sudden, in the middle of the road, without giving any indication or signal, though there was no obstruction in front of the bus. Despite the fact that Sarabjeet Singh applied brakes to avert the accident, his motorcycle struck against the aforesaid bus. In this accident, he received serious injuries. He was removed to Civil Hospital, Khamano and from there he was referred to PGI, Chndigarh where he died on 13.12.2013, due to injuries sustained by him in the accident. FIR No.172 dated 13.12.2013 under Sections 283, 427 and 304-A of the IPC was registered at Police Station Fatehgarh Sahib against respondent No.1 on the statement of the complainant. Therefore, the claimants have prayed for compensation to the tune of Rs.50,00,000/-.

3. On notice, respondent No.1 appeared and filed reply and denied the averments made in the claim petition and submitted that one Labh Singh of village Todarpur is the registered owner of the said bus.

4. Respondent No.2 filed separate written statement and has pleaded that he had engaged respondent No.1 as driver for the offending bus, only after checking all the required documents.

5. Respondent No.3 filed separate written statement alleging that respondent No.1 was not holding valid and effective driving licence at the time of alleged accident. Therefore, the answering respondent is not liable

to pay the compensation amount. 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 accident dated 12.12.2013, resulting in death of Sarabjeet Singh, occurred on account of rash and negligent driving of vehicle No. PB-03-D-8539 by respondent No.1 ? OPP
2. Whether the claimants are entitled for compensation for death of Sarabjeet Singh, if so, to what extent and from whom ? OPP
3. Whether the driver of offending vehicle was not holding a valid & effective driving licence on the date of accident and the vehicle was being driven in violation of terms and conditions of the insurance policy ? OPR-3
4. Relief.

6. The Tribunal, after assessing the testimony of the witnesses accepted the claim petition vide Award dated 09.04.2015, as aforesaid.

7. Feeling dissatisfied with the above said Award dated 09.04.2015, 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. Counsel for the Insurance Company has challenged the Award on two grounds mentioned below :-

10. Ist point raised by the learned counsel for the Insurance Company is that deceased was negligent or in the alternative it is a case of contributory negligence. It is submitted that even according to the case of the claimant Sarabjit Singh was driving the motorcycle and the said

motorcycle hit behind the Bus bearing registration No. PB-03-D-8539.

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

12. The case of the claimant is that Sarabjit Singh was driving the motorcycle at moderate speed and respondent No.1 driver of Bus No. PB-03-D-8539 had overtaken the bus and suddenly applied brakes in the middle of the road and accident has taken place on that ground. To prove said assertion, the claimant has examined eye witness PW-1 Avtar Singh, who has supported the case of the claimant regarding the accident. No doubt, Insurance Company has taken the stand of negligence of Sarabjit Singh in the written reply but that stand remains on paper itself. The Insurance Company has not produced any evidence in this regard. The driver of offending vehicle has even denied the accident. He has not entered into the witness box to depose about the manner of accident. So, the learned Tribunal has rightly draw inference against the respondents. So, the above said arguments regarding negligence of Sarabjit Singh or contributory negligence is without any legal force.

13. The second point raised by counsel for the appellant is regarding quantum. It is submitted that income of the deceased has been wrongly taken as Rs.7000/- per month. 50% increase has wrongly been given. It is submitted that the Tribunal has taken Rs.7000/- per month as minimum wages, which is on higher side.

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

15 The income of the deceased has been taken as Rs.7000/- per month against the minimum wages of Rs.7023/- per month of an unskilled labour. Revised rate assessed by Labour Department, UT Chandigarh as on 17.05.2013 has been considered while assessing that amount, the deceased was 19 years of age and as such 50% amount has rightly been added in respect of future prospectus of the deceased in view of authority **Rajesh and others vs. Rajbir Singh and others reported in 2013 (3) RCR (Civil) page 170.** The said authority has been upheld by three Judges Bench of Hon'ble the Apex Court in case titled as **Munna Lal Jain & another vs. Vipin Kumar Sharma and others C.A. No.4497 of 2015 decided on 15.05.2015.**

15. The annual income of the deceased has been taken as Rs.84,000/-. 50% has been added in respect of future prospectus. 50% has been deducted in respect of personal expenses and the multiplier has been rightly applied keeping in view the age of the deceased as 19 years. The amount granted by the Tribunal under impugned Award does not call for any interference.

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

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

(K.C.PURI)
JUDGE

July 14 , 2015
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