

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4224 of 2015 (O&M)
Date of Decision:- 22.07.2015

National Insurance Co. Ltd.

.....Appellant

Versus

Jagmail Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. Harsh Aggarwal, Advocate,
for the appellant.

Mr. Vivek Goyal, Advocate
for the respondents-caveators.

SHEKHER DHAWAN, J. (Oral)

Present appeal is challenge to the Award dated 27.03.2015, passed by Motor Accident Claims Tribunal, Kurukshetra (hereinafter to be referred as 'The Tribunal'), whereby 'The Tribunal' assessed compensation of ₹31,93,264/- on account of death of Hardeep Singh, who was of the age of 21 years.

2. Learned counsel for the appellant-Insurance Company took the plea that 'The Tribunal' has completely ignored the fact that

respondent No.1-Som Nath Sharma, driver of the truck No.HR-56-0862, was facing trial in a criminal case and was acquitted mainly on the ground that there was no rash and negligence on his part. The said judgment of acquittal was passed on the basis of available evidence. So, the claim petition should have been dismissed by 'The Tribunal'. More so, there was no evidence in this case so as to prove rash and negligence on the part of Som Nath Sharma-respondent No.1. Learned counsel for the appellant-Insurance Company also took the plea that 'The Tribunal' has otherwise assessed the amount of compensation on much higher side because the age of the deceased was taken to be the determining factor for calculating amount of compensation whereas the age of parents as claimants was to be taken into consideration if at all any amount was to be awarded as compensation. So, the appeal be accepted and claim petition be dismissed in toto and in alternative the amount of compensation be reassessed while taking the age of the parents.

4. While arguing on this point, learned counsel for respondents-caveators took the plea that the matter was reported to the police on the same day. Even the statement of witnesses under Section 161 Cr.P.C. were recorded on the same day. Even the judgment of acquittal recorded by learned Judicial Magistrate having no binding effect upon the judgment of 'The Tribunal' because 'The Tribunal' is to assess and determine the amount of compensation in view the evidence available before 'The Tribunal'. In the present case, 'The Tribunal' has rightly appreciated the oral as well as documentary evidence available

before the 'The Tribunal' and the appeal is without any merit. The amount of compensation has been assessed rightly, taking the age of the deceased, which is the correct legal proposition of law on the point. So, the appeal be dismissed.

5. Having considered the rival submissions made by learned counsel for the parties, this Court is of the considered view that the judgment of acquittal recorded by learned Judicial Magistrate is not having any binding effect upon 'The Tribunal' because 'The Tribunal' has to assess and appreciate the evidence available on record. 'The Tribunal' in the present case had rightly placed reliance upon testimony of Manish Kumar PW2, who was pillion rider on the motorcycle bearing No.HR-05M-9698, which was being driven by Hardeep Singh (since deceased). His presence on the spot cannot be disputed. He has specifically attributed rash and negligent driving on the part of Som Nath Sharma (respondent No.1), who was driver of the offending truck. Karan Singh (PW4) is another witness, who deposed before 'The Tribunal' that accident in question had taken place because of rash and negligent driving on the part of respondent No.1. It is not disputed that the matter was reported to the police. Thereafter, the police investigated and submitted challan against the driver of the truck and charge was framed by the Court. Mere acquittal in a criminal case does not make out a case that a claim petition be thrown away by 'The Tribunal'. In the case in hand 'The Tribunal' rightly appreciated the entire evidence and returned the finding that accident had taken place because of rash and negligent

driving. More so, the police had recorded the statement of witnesses under Section 161 Cr.P.C. immediately after the accident. 'The Tribunal' rightly returned the findings regarding rash and negligent driving on the part of respondent No.1 before assessing the amount of compensation.

6. As regards to the amount of compensation, 'The Tribunal' has rightly taken the age of the deceased for determining the amount of compensation and there are no ground to interfere in the findings recorded by 'The Tribunal'.

7. Resultantly, the present appeal filed by appellant-Insurance Company is without any merit and the same stands dismissed.

July 22, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE