

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

FAO No. 4264 of 2015 (O&M)

Decided on: 16.7.2015.

United India Insurance Company Limited

... Appellant

Versus

Baljit Kaur and others

... Respondents

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

Present : Mr. Vikas Mohan Gupta, Advocate,
for the appellant.

K.C.PURI.J.

United India Insurance Company Limited has directed this appeal against the Award dated 2.5.2015 passed by Mrs. Archana Puri, Presiding Officer, Motor Accident Claims Tribunal, Mansa, vide which the claim petition was partly accepted.

It was alleged in the claim petition that Gurmeet Singh (deceased) was travelling in Honda city car No. HR-26-H-5904 on 17.2.2012 whereas Jagjit Singh, Suraj Singh and Gurjeet Singh @ Nikka were travelling in the car in DL-3-CN-6933. At about 5.30 PM, when they reached near Punjabi Dhaba, Fatta Maloka, on main Mansa-Sirsa road, a bus bearing registration No. PB-19-D-7665, came from Jhunir side driven by respondent No.1 Janak Singh, in a rash and

negligent manner and after crossing the tractor trolley, the driver of

said bus had struck the bus into above said Honda city car. As a result of which, Gurmeet Singh and Khushdeep Singh died at the spot whereas Gurpreet Singh sustained injuries. Respondent No.1 driver of the bus fled away with the bus after the accident. FIR No.7 dated 18.2.2012 was registered under Sections 304-A, 279, 337, 338 and 427 IPC.

The respondents No.1 to 3 filed written statement taking preliminary objections of maintainability, locus standi. On merits, the factum of accident has been denied. Other averments were denied.

Respondent No.4 insurance company filed written statement taking the legal objection of locus-standi, territorial jurisdiction. It was pleaded that respondent No.1 driver of bus No. PB-19-D-7665 was not having a valid driving licence. There was no fitness certificate, valid registration certificate and route permit. The insurance company is not liable on that account.

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

- (1) Whether Gurmeet Singh died on 17.2.2014, in a motor vehicle accident caused by Janak Singh respondent No.1 while driving bus No. PB-19-D-7665, in a rash and negligent manner ?OPP
- (2) Whether the claimants are entitled for the amount of compensation ?If so, to what extent and from

whom ?OPP

(3) Whether respondent No.1 was not holding a valid and effective driving licence at the time of alleged accident ?OPR-4

(4) Whether respondents No.2 & 3 owners of bus No. PB-19-D-7665 were not holding valid registration certificate, passing certificate, pollution certificate, route permit and fitness certificate etc. at the time of alleged accident ?OPR-4

(5) Whether the claim petition is bad for mis-joinder and non-joinder of necessary parties ?OPR-4

(6) Relief.

Learned trial Court after adjudication partly accepted claim petition and allowed a sum of Rs.24,20,000/-. As the deceased was having 80 Kanal and 16 marlas of land, his income has been taken as Rs.10,000/- per month. The deceased was 29 years old so, 50% amount was added in respect of future prospects in view of authority **Rajesh and others vs. Rajbir Singh and others 2013 ACJ 1403.** The claimants were four in number so, 1/4th amount was deducted in respect of personal expenses and the dependency was taken as Rs.11,250/- per month. The yearly dependency was taken as Rs.1,35,000/-. Keeping in view the age of deceased as 29 years, multiplier of 17 was applied and in this manner, the amount of compensation was calculated as

Rs.22,95,000/-. A sum of Rs.25,000/- was allowed in respect of funeral

expenses and transportation. A sum of Rs.1 lac was allowed in respect of loss of consortium and in this manner, the amount of compensation was calculated at Rs.24,20,000/-.

The insurance company has directed the present appeal against the quantum of compensation.

Learned counsel for the insurance company has challenged the Award on the ground that future prospects has been wrongly taken into account as the deceased was not a govt. employee or a fixed salaried person. It is further submitted that the income of Rs.10,000/- per month is on higher side. It is submitted that the land would be inherited by the claimants so, the income of Rs.10,000/-per month is on higher side.

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

The occurrence has taken place on 17.2.2012 so, the income of Rs.10,000/- per month is justified. The Hon'ble Apex Court in **Rajesh's case (supra)** has held that future prospects has to be considered in respect of salaried and self-employed person. There is nothing wrong in the calculation. The amount of Rs.25,000/- in respect of funeral expenses and transportation and Rs.1 lac in respect of consortium has been granted keeping in view the authority **Rajesh's case (supra)**. The multiplier has been applied keeping in view the authority **Smt. Sarla Verma and others vs. Delhi Transport**

reduction of compensation.

No other point has been urged.

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

16.7.2015.
SN

(K.C.PURI)
JUDGE