

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

**F.A.O No. 762 of 2013
Date of decision:- 19.11.2015**

ICICI Lombard Gen. Insurance Co. Ltd. ...Appellant

Versus

Sushila and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rajnish Malhotra, Advocate
for the appellant

Mr. Kabir Sarin, Advocate
for respondent No.7

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Nuh (for brevity, the tribunal'), vide its order dated 18.10.2012 whereby the appellant-Company (for short 'the appellant') was held liable to make the compensation to the tune of Rs.12,19,000/-.

FACTS NOT IN DISPUTE

On 06.01.2010, Budh Ram (since deceased) along with Irfan were going in a car which met with an accident. Two persons on a motorcycle were trying to get them out of the car then a truck NO.

HR-38-F-5242 came from Hodal side being driven by respondent No. 1 came in a rash and negligent manner and hit the car, as a result of which both Budh Ram and Irfan received multiple injuries. The deceased remained admitted in various hospitals and on 02.04.2010, he expired.

The learned counsel for the appellant does not dispute that the accident had taken place but contends that the learned Tribunal applied erroneously deduction of 1/10th towards personal expenses and given the compensation of Rs.12,19,000/-. Further there was no proof of the income. The other arguments raised by learned counsel for the appellant that respondent Nos. 3 to 5 were not dependent upon the deceased, as respondent No. 3 is the father and respondent Nos. 4 and 5 are the sisters of the deceased.

The argument raised by learned counsel for the appellant is liable to be rejected as both the sisters were minor at the time of alleged accident and even though they are not totally dependent upon their brother, but the deceased brother had the responsibility to look after them as well and to extend some support.

Further in a judgment passed by Hon'ble the Supreme Court in a case of ***New India Assurance Co. Ltd v. Gopali and others, 2012 (12) SCC 198*** it was an old case of 1992 and Hon'ble the

Supreme Court had taken the monthly income of deceased at Rs.3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd of his income on himself.

In the present case as well, the learned Tribunal had taken the income of the deceased at Rs.4000, to be that of unskilled labourer. The deceased was 25 years of age and has the long family to look after i.e wife, parents and two minor sisters. He was the only son of his family and there was no other to look after the aged parents and two minor daughters, so, the learned Tribunal has rightly applied 1/10th deduction.

No ground is made out to interfere in order dated 20.09.2010 passed by the learned Tribuna,

The appeal stands dismissed.

19.11.2015

G Arora

(RITU BAHRI)

JUDGE