IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4400 of 2015 (O/M)
Date of decision : 23.7.2015

United India Insurance Company Limited ..... Appellant

Versus

Neeraj Khanna and others ...... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ram Avtar, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-.- -.-

KULDIP SINGH, J. (ORAL)

The insurance company has challenged the award dated 3.3.2015, passed by the Motor Accident Claims Tribunal, Chandigarh, (in short 'the Tribunal'), vide which compensation to the tune of Rs. 32,14,882/- was awarded to the claimants, who happen to be husband, children and parents-in-laws' of the deceased.

The brief facts of the case necessary for the purpose of disposal of the present appeal are that Neetu Khanna (deceased) was working as a teacher in the private play school, namely, Sunshine Meadows, Sector-35, Chandigarh. On 1.9.2014, Neetu Khanna was going on her Honda Activa scooter bearing registration No. CH-01-AE-3913 to her school in Sector-35, Chandigarh. It was about 8:40 AM, when the deceased crossed Attawa Chowk, Chandigarh, and respondent-Jasbir Singh, driver of the offending car bearing registration No. PB-65-N-9009, came from behind. He crossed the car of claimant No. 1 (husband-Neeraj Khanna) and hit the scooter of Neetu Khanna from behind. As a result of which, she fell down and received multiple injuries and was removed to Government Hospital, Sector-16, from where she was referred to PGI, Chandigarh, where she succumbed to the injuries on 4.9.2014. It was claimed that Neetu Khanna was 40 years of age and she was earning Rs. 30,000/- per month while working as a teacher in the private school. A criminal case was registered against Jasbir Singh, driver of the offending car.

In the written statement, the respondents denied the allegations that the accident took place due to the negligence of driver of the offending car. It was claimed that the deceased herself was negligent.

To prove the case, claimant No. 1 Neeraj Khanna appeared in the witness box and stated the story of the accident. He also produced the Clerk of the school to prove the income of the deceased. Copy of FIR, copy of income tax return, copy of certificates of educational qualification of the deceased and copy of post mortem report were also proved.

On the other hand, respondent-driver of the offending car did not appear in the witness box and produced the copy of DDR, copy of RC of the vehicle, copy of driving licence and copy of the insurance policy. The insurance company also produced the copy of the insurance policy and closed the evidence.

After hearing both the parties, the Tribunal considered the salary certificate of August, 2014 where the salary of the deceased as teacher was mentioned as Rs. 11,500/- . The Tribunal took into consideration the income tax return (Ex.P15) for the year 2013-14 filed by the deceased before the income tax authorities where her income was recorded to be Rs. 2,21,339/- and income tax of Rs. 2,300/- was paid and the total income was recorded to be Rs. 2,19,039/-. 30% income was added towards future prospects. The deduction of 1/4th on account of personal expenses was applied and after granting compensation under the other conventional heads also, the total compensation to the tune of Rs. 32,14,882/- was awarded to the claimants.

I have heard learned counsel for the appellant and have also carefully gone through the file.

Learned counsel for the insurance company has argued that in this case, the parents-in-laws have also been taken as dependents.

A perusal of the award shows that the Tribunal had relied upon the authority of this Court in *Smt. Krishna Devi and others Versus Dalbir Singh and another,* 2013 (2) AICJ 467 (P/H), wherein it was held that even if the parents-in-laws were not getting any monetary benefits, but the deceased was rendering the household services to the parents-in-laws, therefore, they are considered as dependents. Consequently, the parents-in-laws are treated to be dependents for the limited purpose of household services rendered by the deceased in the family. Therefore, they were rightly taken to be dependents and deduction of 1/4th on account of personal expenses of the deceased was rightly applied.

Learned counsel has further argued that in this case, the income of the deceased was wrongly taken to be Rs. 2,19,039/- on the basis of income tax return. It was argued that income from some other sources and business were also shown. That business will continue and manager can be employed.

There is nothing on record to show that the deceased was doing any other business. It was claimed that she was doing the tuition and that the income under the tuition and other sources including business has been mentioned and the word 'business' is superfluous. The deceased was a teacher and probably doing the tuition work. She had declared her income before the income tax authorities much before her death and even paid the income tax on the said income. Therefore, the income tax return filed by the deceased before her death was rightly taken by the Tribunal to calculate the income of the deceased.

Learned counsel has further argued that in this case, Neeraj Khanna (husband of the deceased), who claims to be eyewitness, was not present at the spot and that the deceased was taken to PGI, Chandigarh by the driver of the offending car Jasbir Singh. It has been argued that the scooter of the deceased skid and there was no negligence on the part of the Jasbir Singh. Neeraj Khanna (respondent-husband) has admitted that he had come at the spot after the accident. Therefore, his story of following his wife in the car, cannot be believed.

I am of the view that in the case of motor accident claim, an inquiry is to be conducted. The strict procedure of Civil Procedure Code is not to be followed. In this case, it was claimed by the claimant that the scooter was hit from behind by the driver of the offending car. Even, if it is assumed for the sake of argument that Neeraj Khanna was not present at the spot, other scientific evidence is available to show whether the scooter was hit from the behind or not. In this case, the FIR was registered against Jasbir Singh (driver of offending car) and the investigation was carried out. Had the scooter not been hit from behind, the police investigation would have made the things clear. If the insurance company takes some pleas, it was for the insurance company to prove the same. The report of the mechanic was the best evidence to see as to what damage was caused to the scooter and as to whether the scooter was hit from behind or not. In this case, the driver of the offending car did not appear in the witness box to put forward his case and offer himself for cross examination. Therefore, the evidence of the claimant was rightly believed by the Tribunal. The distribution of compensation is inter-se dispute between the claimants and the insurance company cannot challenge the same.

It being so, I do not find any illegality or infirmity in the impugned award. The appeal is accordingly dismissed.

(KULDIP SINGH)
JUDGE

23.7.2015
sjks