IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5035 of 2015 (O&M)
Date of decision: 16.11.2015

Reliance General Insurance Company Limited

….Appellant

Versus

Beena and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Subhash Goyal, Advocate
for the appellant.

RITU BAHRI J. (Oral)

CM No.15571-CII of 2015

For the grounds mentioned in the application, the same is allowed and the delay of 02 days in filing the appeal stands condoned.

MAIN CASE

The present appeal has been filed by the appellant-Insurance Company against the award dated 23.03.2015, passed by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal'), whereby the claimants have been awarded a compensation of Rs.20,97,000/-, on account of the death of Mahender Singh in a motor vehicular accident, which took place on 05.09.2014.

FACTS NOT IN DISPUTE

On 05.09.2014, at about 12:30 p.m., Mahender along with Vijay Singh son of Mam Chand was going towards his house on foot after closing his shop of tyre puncture situated in village Naseebpur. When they both reached in front of Housing Board, then a vehicle XUV car bearing No.HR-35-H-9090, being driven by its driver-respondent No.1 at a fast speed, in a rash, negligent and zig-zag manner, came from behind and hit Mahender Singh, who was moving on his side. As a result thereof, Mahender sustained grievous and fatal injuries on his person and he died at the spot. After the accident, respondent No.1 stopped his vehicle at a little distance but, thereafter, he fled away towards Mohindergarh side along with his vehicle.

In this regard, FIR No.357 dated 06.09.2014, under Sections 279 and 304-A IPC, in respect of the accident in question, was got registered at Police Station City Narnaul, District Mohindergarh, at the instance of Vijay Singh.

Consequently, the claimants-respondents filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY MACT

Before the Tribunal, Vijay Singh appeared as PW-2 and tendered his affidavit Ex.PW-2/A to prove the accident in question. Ultimately on the basis of the evidence led by the parties, the Tribunal has came to the conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1 and the Tribunal has returned the finding on Issue No.1 in favour of the claimants-appellants.

The claim petition was accepted by the Tribunal and a sum of Rs.20,97,000/- was awarded as compensation on account of death of Mahender Singh along with future interest at the rate of 9% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was taken as Rs.16,000/- per month by taking into consideration the Income Tax Return for the year 2014-15 (Ex.PX) and thus, the annual income of the deceased comes to Rs.1,92,000/- per annum. Out of this, 1/4th amount was deducted towards personal expenses. The annual dependency of claimants-respondents, thus, came to Rs.1,44,000/- per annum. Mahender Singh (deceased) was more than 46 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants-respondents were found entitled to compensation of Rs.18,72,000/-. In addition to it, further compensation of Rs.1,00,000/- was awarded towards loss of consortium, Rs.1,00,000/- was awarded towards loss of love and affection and Rs.25,000/- was awarded in respect of funeral expenses. Hence, the claimants-respondents were found entitled to total compensation of Rs.20,97,000/-.

Feeling dissatisfied with the impugned award, the appellant-Insurance Company has preferred the present appeal.

Learned counsel for the appellant has submitted that the income of the deceased has wrongly been assessed by the Tribunal by taking into account the Income-tax return for the year 2014-15, showing his gross income as Rs.1,92,000/-. There was no evidence with regard to genuineness of Income-tax return for the year 2014-15 and hence, the income of the deceased should not be calculated by taking the income of Rs.16,000/- per month.

I have heard the contention raised by learned counsel for the appellant-Insurance Company, but the same is liable to be rejected as the accident in the present case had taken place on 05.09.2014 and before this date, the Income-tax return for the year 2014-15 had already been filed by the deceased-Mahender Singh. The Income-tax return is the best evidence to assess the income of the deceased.

The fact of accident is admitted and proved. It stands established that the deceased died, as a result of the accident.

The income of the deceased has rightly been assessed by the Tribunal as Rs.16,000/- per month and the same does not call for interference.

The Insurance Company has not lead any evidence to show that the Income-tax return (Ex.PX) was a fake one and in the absence of any such evidence, the Insurance Company is liable to make the compensation.

So, keeping in view the above facts and circumstances, the appeal filed by the appellant i.e. Reliance General Insurance Company Limited, is devoid of merit and the same is hereby dismissed.

(RITU BAHRI)
JUDGE

16.11.2015
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