

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

FAO No. 5084 of 2015 (O&M)

Date of decision : 6.8.2015

New India Assurance Company Limited

... Appellant

VS

Miss Kiran and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. R. C. Kapoor, Advocate, for the appellant.

Rajesh Bindal, J.

This order will dispose of three appeals bearing FAO Nos. 5084, 5088 and 5092 of 2015, as the same arise out of a common award passed by the Motor Accidents Claims Tribunal, Chandigarh (for short, 'the Tribunal').

The accident occurred on the intervening night of 14/15.2.2014. As a result of the accident, one Babita died and the other occupants of the car, namely, Sushila and Kiran suffered injuries. The vehicle was being driven by Vikrant.

It was claimed that at the time of accident, Sushila, who was 32 years of age, was working as Patient Care Attendant and was house wife. While working as Patient Care Attendant, she was earning ₹ 10,000/- per month, whereas the value of the services rendered to the family was not less than ₹ 10,000/- per month. Kiran minor, who suffered injuries, when the accident took place, was a student. She suffered multiple injuries. A sum of ₹ 50,000/- was claimed as medical expenses and further compensation was claimed on account of disability, etc. The husband and children of deceased Babita, who was a house wife, claimed compensation on account of the value of the services rendered by her to the family and on medical expenses, etc. The learned Tribunal awarded claimant Sushila a sum of ₹ 1,23,375/-, claimant Kiran a sum of ₹ 1,24,687/- and claimants Sukhwinder and others, a sum of ₹ 21,69,000/-, along with interest @ 7.5% per annum from the date

of filing the petition till realization of the amount.

Learned counsel for the appellant sought to raise the contention that no criminal case was got registered initially and only DDR was registered. The other vehicle is not known, though it is claimed that the vehicle in question in which the injured and the deceased were sitting was hit by another vehicle and as a result of which the accident took place. The version is different as given in the DDR and the claim petition. He further claimed that value of the services rendered by the wife as assessed by the learned Tribunal and addition of future prospectus has been made, which is uncalled for.

After hearing learned counsel for the appellant, I do not find any reason to interfere with the impugned award. There is no dispute that the accident of the vehicle in which the injured and the deceased were travelling took place at about 12.30 am. Merely because that the FIR has not been got registered will not be sufficient to non-suit the claimants seeking compensation on account of death or injuries suffered in the accident. The version given in the DDR that the vehicle was hit by another vehicle, hence, the negligence was there. What was sought to be contended is that in case contributory negligence is proved, at least the appellant will be able to recover part of the compensation from the other vehicle involved in the accident, however, the other vehicle is not known. Since in a case where the accident is proved and it is not in dispute that the vehicle in question is comprehensively insured, in my opinion, no illegality has been committed by the learned Tribunal in awarding compensation to the claimants. Challenge to the addition made on account of future prospectus in the value of the services rendered by the house wife also deserves to be rejected as with the passage of time even the value of the services rendered by house wife will also increase, hence, the increase on that account cannot be said to be unjustified.

Claimant Sushila, who claimed compensation on account of injuries suffered in the accident, proved on record disability certificate claiming her disability to be 8% of left lower limb. The learned Tribunal assessed loss of future earning @ 4% and assessed the compensation of ₹ 69,120/- on that account. The amount so awarded cannot be said to be unreasonable considering the fact that even she was working as a house

wife, as has been taken by the learned Tribunal leaving her claim of working as Patient Care Attendant. Still with the permanent disability suffered, there is always loss in efficiency of a person.

For the reasons mentioned above, I do not find any reason to interfere with the impugned award. The appeals are accordingly dismissed. Consequently, the accompanying applications are also dismissed.

6.8.2015

vs

(Rajesh Bindal)
Judge