

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

**F. A. O NO. 7680 OF 2014 (O&M)
DECIDED ON : 02.03.2015**

Reliance General Insurance Co. Ltd.

...Appellant

versus

Mohinder Kaur and others

...Respondents

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

Present : Mr. Sanjeev Kodan, Advocate,
for the appellant.

K. C. PURI, J. (ORAL)

CM NO. 20531-CII OF 2014

There is delay of 23 days in filing the appeal. The same stands condoned for the reasons mentioned in the application.

MAIN CASE

Challenge in this appeal is to the award dated 18.02.2014 passed by Shri Pushvinder Singh, Motor Accident Claims Tribunal, Patiala, vide which claim petition preferred by the claimants/respondents No.1 to 4 on account of death of Ranjit Singh, was accepted and compensation of ₹21,20,697/- along with interest @ 6% per annum was awarded to the claimants.

Briefly stated, Mohinder Kaur-mother of deceased Ranjit Singh, Rajinder Kaur-wife of deceased, Harpreet Singh-son of the deceased and Sukhbir Kaur-daughter of the deceased filed claim petition claiming compensation to the tune of ₹20,00,000/- on account of death of Ranjit Singh s/o Bhan Singh in a motor vehicular accident.

It is alleged that on 27.02.2010, deceased Ranjit Singh accompanied by his brother Jasvir Singh had gone to Cooperative Bank, Chahal, on his motorcycle Enfield Bullet bearing registration No. PB-11-AL-8186. Jasvir Singh was pillion rider of the said motorcycle. After visiting the said Bank, the deceased dropped Jasvir Singh on the main Bhadson-Chahal road and was proceeding on his duty at Forest Department at about 10.30 AM. He had gone to some distance, the offending vehicle TATA 407 bearing registration No. HR-39-8047 being driven in rash and negligent manner and at a high speed came from Bhadson side. The said TATA 407 struck against the motorcycle of deceased due to which he fell down on the road and sustained severe injuries on head and leg. He was taken to Columbia Asia Hospital, Patiala on vehicle of Bhupinder Pal Singh. He remained admitted there from 27.02.2010 till 07.03.2010. On 07.03.2010 at about 8.40 AM, he died due to the injuries sustained by him in the above said accident.

It is further pleaded that a sum of ₹1,00,000/- was spent on his treatment, whereas ₹15,000/- was spent on last

rites of deceased. It is further pleaded that Ranjit Singh (deceased) was employed in Forest Department and was earning ₹15,000/- per month. Therefore, a sum of ₹20,00,000/- has been claimed as compensation.

Notice of the claim petition was given to respondents. Respondents No.1 and 2 appeared and filed joint written statement denying all the allegations levelled in the claim petition. It was further pleaded that no such accident took place with respondent No.1. It was further pleaded that the respondent was implicated in false case by the petitioners (now respondents No.1 to 4) in collusion with the police. However, it was admitted that the offending vehicle was insured with respondent No.3 (now appellant).

Respondents No. 3 filed separate written statement taking preliminary objections qua maintainability of the claim petition; that respondent No.1 was not holding a valid and effective driving license at the time of accident; claim petition is bad for non-joinder of necessary parties.

On merits, the averments made in the claim petition were denied. It was further denied that the age of deceased was 50 years. The relationship of claimants with the deceased was also denied.

Rejoinder was filed wherein all the averments made in the written statements were denied and those made in the claim petition were reasserted.

From the pleadings of parties, following issues were framed :

1. Whether on 27.02.2010 Ranjit Singh died in a motor vehicle accident caused due to rash and negligent driving of offending vehicle by respondent No.1 ? OPP
2. Whether claimants are the legal heir of the deceased and are entitled to the compensation and from whom ? OPP
3. Whether respondent No.1 was not holding a valid and effective driving license at the time of accident ? OPR3
4. Whether the claim petition is bad for non-joinder of necessary party ? OPR.
5. Whether the vehicle was not having any fitness certificate, RC and route permit ? OPR
6. Relief.

In order to prove their case, claimants examined Rajinder Kaur (claimant) as PW-1, Sheela Devi, Technical Assitant Forest Division, Sangrur as PW-2, Bhupinder Pal Singh (eye witness) as PW-3 and closed the evidence.

On the other hand, respondent No.3 tendered into evidence certain documents and closed the evidence.

The learned Tribunal, after appraisal of the evidence available on record, accepted the petition with costs. The claimants were granted compensation to the tune of ₹21,20,697/- along with interest @ 6% per annum from the date of filing the petition till actual payment. The costs was assessed at ₹1100/-.

Feeling dissatisfied with the above said award dated 18.02.2014, the Insurance Company has preferred the present appeal.

Learned counsel for the appellant has submitted that negligence of the offending vehicle is not proved, as he has been acquitted by the criminal court.

I have carefully considered the said submission but do not find any force in the same.

Mere acquittal in a criminal case does not disprove the the case of claimant. The eye witness has supported the case of claimant on all material aspects. Moreover, the driver has not come into the witness box to deny the manner of accident. So, the above said argument is without any substance.

Learned counsel for the appellant has further submitted that in view of authority "**Smt. Sarla Verma and others vs. Delhi Transport Corporation and anr.**" 2009 (3) **RCR (Civil) 77**, no amount in respect of future prospects can be allowed, in case the deceased is more than 50 years of age. However, learned Tribunal relying upon the authority "**Rajesh and others v. Rajbir Singh and others**" 2012 (2) Apex

Court Judgments 245 (SC) has enhanced the amount of compensation to the tune of 15% in respect of future prospects. The matter is pending before larger Bench in respect of decision taken in **Rajesh and others' case (supra)**. So, prayer has been made for reducing the amount of compensation.

I have carefully considered the said submission but do not find any force in the same.

The amount of 15% has been increased on the basis **Rajesh and others' case (supra)**. So, enhancement of compensation to 15% in respect of future prospects for a person above 50 years of age, cannot be said to be wrong in view of the said authority. Mere fact that the matter is pending before larger Bench is not a ground for interference by this court.

So, in view of the above discussion, no ground for interference by this court is made out.

Dismissed.

MARCH 02, 2015
shalini

(K. C. PURI)
JUDGE