

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

**FAO No.6122 of 2015 (O&M)
Date of Decision: November 28, 2015.**

Cholamandalam M.S. General Insurance Company Ltd.

.....APPELLANT(s).

VERSUS

Ravinder Kaur and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

2. This is appeal against the award dated 06th May 2015 passed by Motor Accident Claims Tribunal, Jalandhar (later referred to as 'the Tribunal') allowing compensation of ₹21,36,950/- for the death of Om Parkash Singh (later referred to as 'the deceased'), in a motor accident with truck bearing registration No.PB65K-(T)-9287. The offending truck was insured with the appellant-Insurance Company.

3. The deceased was 60 years of age and as per claimants, he was doing business of selling cement and other building material. He was also in the business of property dealer besides being an agriculturist.

4. The detailed facts are not being discussed as the challenge to the

award is on two counts; firstly, that the driving licence of the driver of the offending vehicle was not valid on the date of accident i.e. 5th September, 2011 and secondly, on the quantum of compensation.

5. Learned counsel for the appellant has argued that the driving licence of respondent No.1-Ashok Kumar, who was driving the offending vehicle on the date of accident was valid upto 20th August, 2011 and was renewed on 19th September, 2011. This fact was proved by Ashok Kumar, concerned official in the office of DTO, Gurdaspur, who appeared as RW2.

6. Section 14 of the Motor Vehicles Act deals with currency of driving licences and proviso to this Section reads as follows:-

“Provided that every driving licence shall, notwithstanding its expiry under this sub-section continue to be effective for a period of thirty days from such expiry.”

7. In view of the above provision, the driving licence of Ashok Kumar was valid on the date of accident, as such, argument of learned counsel appellant to this effect has no merit and is discarded.

8. The next submission of learned counsel for the appellant is that the deceased was earning from his business and it is admitted case of the claimants that the business, after his death, is being looked after through servants, from where the claimants are having regular income. The Tribunal has not looked into this aspect while assessing the amount of dependency.

9. The claimants have alleged the income of the deceased from various sources like business, property dealing, agriculture etc. as more than ₹1 lac per month and their dependency to the tune of ₹88,000/-. However,

the Tribunal took note of the income of deceased as shown in the income tax

return for the year 2009-2010 i.e. of the period prior to the accident. After making deductions towards his personal expenses, the amount of dependency was calculated as ₹2,23,550/- per annum, which comes to around ₹18,600/- per month. It is apparent from the perusal of the award that the deceased, who was 60 years of age at the time of his death, was well settled in life and the amount of dependency calculated on the basis of his income tax return for the claimants is not on higher side. This argument that the business has continued and the claimants still have income from the business, cannot be accepted to reduce the amount of dependency of claimants. After the death of an earning member, someone in the family has to earn livelihood. Even when a Government employee dies, the family gets pension. As per settled proposition of law, the amount of pension cannot be deducted towards the amount of compensation. The submission made by learned counsel for the appellant cannot be accepted, in view of the settled proposition of law and as such, is discarded.

10. On perusal of the award, I find no legal or factual infirmity therein calling for any interference.

11. This appeal has not merits.

12. Dismissed.

November 28, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE