

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

**FAO No.2901 of 2011
Dated 03.06.2016**

ICICI Lombard General Insurance Co. Ltd.

... Appellant

Vs.

Paramdeep Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. To be referred to the Reporters or not ? Yes/No
3. Whether the judgment should be reported in the digest ? Yes/No

Present: Ms. Vandana Malhotra, Advocate,
for the appellant.

None for the respondents.

This appeal is directed against the award passed by the Motor Accident Claims Tribunal, Fast Track Court, Patiala, (for short, 'Tribunal') in MACT No.52-T on 01.12.2010.

The learned Tribunal had been pleased to award a composite amount of ₹6,55,000/- in favour of claimant-respondent No.1 on account of the death of her husband in a motor accident, which took place on 25.11.2008.

The award has been assailed on the following grounds:-

- 1) That no evidence exists on record to establish rashness or negligence on the part of the driver of the offending vehicle;
- 2) That the income of the deceased as assessed by the learned Tribunal is on the higher side; and
- 3) That a wrong multiplier has been adopted in the case since it is established from the own driving

licence of the deceased, which is on record that he had already crossed the age of 60 years at the relevant time.

It transpires that FIR No.281 dated 25.11.2008 under Sections 279, 304A and 427 of the Indian Penal Code was registered against the driver of the offending vehicle, who is respondent No.3 in this appeal. The same would prima facie go to indicate that there was an element of rashness/negligence on the part of the driver since otherwise there was nothing on record to indicate if he was ultimately acquitted or any other direct evidence to show that the victim was himself responsible for the accident in which he was killed.

The claimant has asserted that the income of her husband was to the tune of ₹30,000/- per month as he was a landowner and engaged in agriculture as well as dairy farming business. J-Form (Exhibit P1) pertaining to sale of the agricultural crop sold by the deceased for the year 2007, which is on record, shows its valuation as ₹1,37,259.04 p. Admittedly, his death took place in the following year when such valuation could only have increased. Exhibit PW2/B also shows that he was the owner of about 17 acres of land, which itself indicates that he was a man of good and sufficient means. Nevertheless, the learned Tribunal was inclined to assess his annual income at half of the rate claimed by the widow, i.e., ₹15,000/- per month, which in the opinion of this Court, is actually on the lower side. However, since the claimant has not appeared to contest the proceedings, this Court is not inclined to disturb the findings of the learned Tribunal on this count.

Regarding the question of multiplier, it is seen that the correct

multiplier of “7” has been adopted by the learned Tribunal for the age slab

of the deceased victim.

If anything, the award of an amount of ₹5,000/- on account of loss of consortium and a composite amount of ₹20,000/- for funeral/last rites and transportation of the dead body etc. also do appear to be on the lower side in view of various judgments on these points particularly in relation to loss of consortium. It has also to be taken into account that after the victim's death the claimant is left all alone since the record reveals that their children, including a married daughter, are settled elsewhere. The pain, shock and suffering of the claimant in the given circumstances would, therefore, be much more acute in comparison to that of any other widow, who had her remaining family members including children, in the household, to take care of her emotionally and otherwise.

For the aforesaid reasons, this Court finds no infirmity in the award passed by the learned Tribunal in which even the rate of interest has been awarded at the bare minimum of 6% per annum.

The appeal is, therefore, dismissed.

No orders as to costs.

(SUDIP AHLUWALIA)
JUDGE

03.06.2016
adhikari