205.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5399 of 2011 (O&M)
Date of decision: 19.02.2016

Parveen Rani and others ... Appellants

versus

Gurmeet Singh and others .... Respondents

II. FAO No.4932 of 2011 (O&M)

United India Insurance Company Limited ... Appellant

versus

Parveen Rani and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vinod Gupta, Advocate,
for the appellant in FAO No.4932 of 2011 and
for respondent No.6 in FAO No.5399 of 2011.

Mr. L.S. Sidhu, Advocate,
for respondent No.2 in FAO No.5399 of 2011 and
for respondent No.5 in FAO No.4932 of 2011.

Mr. H.S. Ketli, Advocate,
for Mr. J.S. Khiva, Advocate,
for respondent No.1 in FAO No.5399 of 2011 and
for respondent No.4 in FAO No.4932 of 2011.

Mr. Harish Goyal, Advocate,
for the appellants in FAO No.5399 of 2011 and
for respondents 1 to 3 in FAO No.4932 of 2011.

----

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

<u>K.Kannan, J.</u> *(Oral)*

1. Both the appeals are connected. FAO No.5399 of 2011 is at the instance of the claimants seeking for enhancement and the appeal in FAO No.4932 of 2011 is at the instance of insurer denying liability.

2. The deceased was 21 years of age being a student of Bachelor of Education (B.Ed.). The claimants were parents and younger sister. The evidence was that he used to conduct tuition and was earning about ₹6,000/-. The Tribunal took the income at ₹3,000/- and assessed a compensation of ₹3,29,000/- and making the provision also for funeral expenses at a modest sum of ₹5,000/-.

3. Considering the fact that he was doing a course in B.Ed. and with adequate prospect of employment and the likely expectation of parents to support them, I will average the income at ₹7,000/-, make a deduction of 50% and rework the compensation and tabulate the various heads of claims as under:-

Accident			
Age	21		
Occupation	Student B.Ed.		
Claimants	Parents and sister		
	Heads of claim	**Tribunal**	**High Court**
Sr. No.		Amount (₹)	Amount (₹)
1.	Income	3,000	
2.	Add,% of increase 30%/50%		7,000
3.	Deduction ½, 1/3, ¼, 1/5	1,500	3,500
4.	Multiplicand		42,000
5.	Multiplier		18
6.	Loss of dependence		7,56,000
7.	Medical expenses		

8.	Loss of consortium		
9.	Loss of love and affection		1,00,000
10.	Loss to estate		5,000
11.	Funeral expenses	5,000	25,000
	Total	3,29,000	8,86,000

The total compensation shall be ₹8,86,000/- with interest at 9% from the date of petition till date of payment. I make this available to the parents only, for, sister cannot be dependent on the brother when he was a student. The liability shall be on the Insurance Company and the issue of whether there is any scope for recovery against the owner and driver will be subject to the findings herein below made in the connected case in FAO No.4932 of 2011.

4. The contention of the learned counsel for the insurer is that a verification brought at the Tribunal was that the driving licence produced by the driver was not valid but it was a fake one. The court did not rely on the document, since it arrived after adjudication. If the issue would require an adjudication on whether the driving licence was genuine or not, it will be only appropriate that the Insurance Company takes steps to summon a competent witness with the original register from the DTO's office. This will help the court to decide on whether the Insurance Company shall have the benefit of recoveries or not only for the sake of adjudication regarding the insured's right against the owner and driver. I remit both the appeals for adjudication regarding the validity of the licence. This adjudication does not require the

presence of the claimants and the court shall only take evidence of the respective parties and may render an adjudication on the basis of such evidence. The decision of the Tribunal is modified as regards the quantum and as regards the liability, both the appeals are remitted for disposal in accordance with law. The claimants shall be at liberty to enforce the award against the insurer without having to wait for the final adjudication for inter se adjudication between the insurer and insured.

5. Both the appeals are disposed of as above.

6. The Insurance Company and the owner and driver shall appear before the Tribunal, Bathinda on 01.04.2016.

(K.KANNAN)
JUDGE

19.02.2016
sanjeev