

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC 36-CII of 2013 in/&
FAO No. 7171 of 2011 (O&M)
Date of decision: Janaury 12, 2016

Reliance General Insurance Co. Ltd.

.....Appellant

VS.

Smt. Krishna and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr. T.K.Joshi, Advocate
for the appellant.

Mr. Ajay Gupta, Advocate
for respondents No. 1 to 3.

Mr. Ashwani Bhardwaj, Advocate
for respondents No. 4 and 5.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

K.KANNAN,J (Oral)

C.M.No. 30434-CII of 2011

For the reasons mentioned in the application, delay in filing the appeal
is condoned.

Civil Miscellaneous Application stands disposed of.

FAO No. 7171 of 2011

1. The appeal is at the instance of the insurer on the issue of involvement

of the vehicle and on the assessment and the principles involved in assessing the quantum.

2. The contentions of the insurer are that in the F.I.R there was no reference to the insured vehicle as having been involved in the accident. It was only after nearly 10 days after the accident that the identity of the vehicle was alleged to have been traced and case registered against the driver. The driver had actually appeared in the Court and denied the involvement of the vehicle. The court ought to have, therefore, found that there was no adequate proof of the involvement of the vehicle.

3. Further argument is that the deceased was working as an Assistant in the Office of the Commissioner, Government of Haryana, Gurgaon, and after his death in harness his family has been given the benefit of compassionate assistance in being provided with the same income which the deceased was earning at the time of his death and, therefore, the said benefit must be given due consideration for deduction.

4. As regards the involvement of the vehicle, before the Tribunal there was evidence appeared through PW4 Vijay Singh who had given the evidence about the alleged involvement of the insured vehicle. The Tribunal has observed that the deposition of PW4 inspired full confidence in his mind and that there was no doubt in his mind that the accident did occur involving the insured vehicle. The police had also carried its own investigation and admittedly the driver had been proceeded against for his involvement and his alleged rash and negligent driving, and the Tribunal has considered the facts brought out the F.I.R and the police investigation, the prosecution of the insured driver and the evidence of the particular witness as inspiring confidence. I find no ground for a interference with such a finding.

compassionate assistance, a Division Bench of this Court in **Reliance General Insurance Company Limited vs. Purnima and others 2013 (2) PLR 306** has held that no deduction could be made as far as compassionate assistance is considered. The Division Bench ruling still holds the field and has not been set aside so far and therefore I reject the argument that any deduction must be made.

6. There is a cross objection for enhancement contending that the additional provision for loss of love and affection and consortium must be provided not merely at conservative amount of Rs. 10,000/- but must be escalated in the way tell in **Rajesh and others versus Rajbir and others 2013 (9) SCC 54** at an additional amount of one lakh rupees for loss of consortium and a lakh of rupees for each of the minor children. The funeral expenses also should be escalated by another Rs.20,000/-. The Tribunal has adopted a multiplier of 16 for a person aged 43 years, where it could have been only 14, as per the decision in **Sarla Verma vs. Delhi Transport Corporation 2009 (6) SCC 121.** The additional income so provided more than offsets the amounts not provided towards loss of consortium and love and affection. The Tribunal has already granted compensation of Rs. 30,23,337.60/- and I retain the same.

8. The appeal and cross objection are dismissed.

JANUARY 12 , 2016

Rajeev

**(K.KANNAN)
JUDGE**