IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Decided on: 05.09.2016

1. FAO No.4227 of 2013 (O&M)

Oriental Insurance Company Limited ....Appellant

Versus

Shero and others ....Respondents

2. FAO No.5897 of 2013 (O&M)

Shero and others ….Appellants

Versus

Pargat Singh and others ….Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Ms. Manjari Nehru Kaul, Advocate
with Mr. Abhinandan Pandhi, Advocate
for the appellant (in FAO No.4227 of 2013)
and for respondent No.3 (in FAO No.5897 of 2013)

Mr. Ishan Cooner, Advocate
for Mr. J.S. Cooner, Advocate
for respondents No.1 to 3 (in FAO No.4227 of 2013)
and for the appellants (in FAO No.5897 of 2013)

Mr. Jasbir Rattan, Advocate
for respondents No.4 and 5 (in FAO No.4227 of 2013)
and for respondents No.1 and 2 (in FAO No.5897 of 2013)

REKHA MITTAL, J.

This order will dispose of FAO Nos.4227 of 2013 *'Oriental Insurance Company Limited vs Shero and others'* and No.5897 of 2013 *'Shero and others vs Pargat Singh and others'* as these have emerged out of the same award dated 13.05.2013 passed by the Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') whereby Shero and others (claimants) have been allowed compensation in respect of death of Kanwar Singh in a motor vehicular accident that occurred on 24.12.2011.

The parties shall be referred to as 'the claimants' and 'the insurance co.' for the sake of convenience.

FAO No.4227 of 2013 (O&M)

The sole submission made by counsel for the insurance co. is that as driver of the offending vehicle namely Pargat Singh was not possessing a valid driving licence, the insurance co. is liable to be exonerated of its liability to pay compensation and the Tribunal has committed an error in holding the insurance company liable to satisfy claim of the claimants and thereafter to seek recovery from the owner and driver of the offending vehicle. In support of his contention, he has referred to judgment of the High Court of Judicature at Bombay, Nagpur Bench ***"Manager, United India Insurance Company Limited vs Kamalabai Mukunda Kumare and others",*** **2012 ACJ 1011**.

The contention raised by counsel for the appellant is bereft of merit and deserves outright rejection in view of authoritative enunciation of law laid down by Hon'ble the Supreme Court in ***"National Insurance Company Limited vs Swaran Singh and others",*** **2004(2) RCR (Civil) 114.**

In view of the above, the appeal fails and is accordingly dismissed.

FAO No.5897 of 2013 (O&M)

The claimants are in appeal seeking enhancement of compensation awarded by the Tribunal.

The learned Tribunal assessed income of the deceased at Rs.5,000/- per month, deducted 1/3rd towards personal expenses, adopted a multiplier of 14 and allowed benefit of future prospects to the extent of 30% to compute loss of dependency at Rs.7,28,000/-. In addition, an amount of Rs.5,000/- each for funeral expenses and loss of estate and another amount of Rs.10,000/- for loss of consortium has been awarded. In this manner, total compensation comes to Rs.7,48,000/- instead of Rs.7,28,000/-. Accordingly, the award passed by the learned Tribunal is modified that total compensation payable to the claimants, as per the award, would be ***Rs.7,48,000/-***.

Counsel for the appellants has submitted that compensation awarded by the Tribunal under conventional heads needs re-look, addition and enhancement.

Shero, widow of the deceased shall be entitled to an amount of ***Rs.1,00,000/-*** for loss of consortium, children of the deceased to an amount of ***Rs.1,50,000/-*** in equal share for loss of love and affection. The claimants are awarded ***Rs.25,000/-*** each for loss of estate and funeral expenses. In this manner, total compensation comes to ***Rs.10,48,000/-*** *(Rs.7,48,000/- (Loss of dependency) + Rs.1,00,000/- + Rs.1,50,000/- + Rs.50,000/-)*. The enhanced compensation is ***Rs.3,00,000/-*** (Rs.10,48,000/- – Rs.7,48,000/-) payable with interest @ 7.5% per annum from the date of filing of the petition till realization.

The additional compensation shall be payable to children of the deceased in equal share and deposited in the shape of FDR in a nationalized bank for a period of three years or till they attain the age of majority whichever is later.

The appeals are disposed of in the aforesaid terms.

05.09.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No