

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

FAO No.1771 of 2016(O&M)

Date of Decision: March 31, 2016

United India Insurance Company

...Appellant

Versus

Santosh Kumari and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Rajesh K.Sharma, Advocate for
the appellant – Insurance Company.

HARINDER SINGH SIDHU, J.

This is appeal by Insurance Company (United India Insurance Company Ltd.) against the Award dated 27.11.2015 passed by the Motor Accident Claims Tribunal, Patiala ('the Tribunal'), whereby, compensation of Rs.11,22,488/- was allowed on account of death of Pawan Kumar, son of respondents No.1 and 2, brother of respondents No.3 and 4, in a motor vehicle accident involving motor cycle No.PB-11-BB-8723, owned and driven by Tarun Joshi – respondent No.5. The liability to pay the compensation was held to be of the insurer of the offending motorcycle. The appellant being insurer has filed this appeal challenging the award.

Learned counsel for the appellant has assailed the award on two counts. Firstly, that there was no involvement of the offending motorcycle in the accident. There was no eye-witness account of the accident in the absence thereof, the Tribunal has wrongly recorded findings that accident had taken place due to rash and negligent driving of the motorcycle by

respondent No.5. Secondly, he has argued that the Tribunal while applying the multiplier to compute the amount of compensation considered the age of the deceased, whereas, it should have considered the age of the parents and applied multiplier accordingly.

The Tribunal had framed the following issue regarding the rash and negligent driving of the offending vehicle:-

“1. Whether on 11.07.2014 at about 11.00 a.m, in the area of Rakhra Bus Stand, the respondent No.1 Tarun Joshi drove his motor cycle bearing Registration No.PB-11-BB-8723 in rash and negligent manner and caused the death of Pawan Kumar by his aforesaid act? OPP”

Narinder Kumar, brother of deceased Pawan Kumar appeared in the witness box as PW1 and narrated the entire facts in his sworn affidavit Ex.P1. In the affidavit, he specifically deposed that he went to Police Post Century Enclave number of times for initiating criminal proceedings against respondent Tarun Joshi because due to his rash and negligent driving the accident had taken place and Pawan Kumar expired due to injuries received by him in the said accident. But police officials did not pay any heed towards him and did not lodge any FIR against Tarun Joshi. This witness has also mentioned that he filed an application before SSP Patiala for initiating criminal proceedings against Tarun Joshi. Another witness Raman Kumar (PW2) is the eye-witness of the accident and he has also blamed rashness and negligence on the part of respondent No.5 Tarun Joshi, who was driving the offending motorcycle at the time of accident. Copy of DDR No.16 dated 11.7.2014 recorded at Police Station Century Enclave, Patiala was also placed on record as Ex.D1, wherein, registration number as also the name of

the driver of the offending motorcycle were mentioned. It was on this evidence that the Tribunal rightly returned a finding that the accident had occurred due to rash and negligent driving by respondent No.5.

Now, coming to the second argument, the matter regarding application of multiplier was examined by three Judges Bench of the Hon'ble Supreme Court in the case of **Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65**, in which **Smt.Sarla Verma and others v. Delhi Transport Corportaion and another, 2009(3) RCR (Civil) 77**, was considered and it was held that multiplier as given in Smt.Sarla Verma's case (supra) has to be applied. In the said case, Supreme Court applied the multiplier as per age of the deceased. Therefore, the multiplier was correctly applied. In a recent judgement in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, the Hon'ble Supreme Court has upheld the same view that multiplier is to be applied with reference to the age of the deceased and not age of dependents of deceased.

No other point was raised.

In view of above, there is no merit in the appeal and the same is hereby dismissed.

March 31, 2016

(**HARINDER SINGH SIDHU**)
JUDGE

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