

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

FAO No.3065 of 2016 (O&M)

Date of decision : 26.10.2016

TATA AIG General Insurance Company Ltd.

.....Appellant

Versus

Dharambir and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Rajesh K. Sharma, Advocate for appellant.

DARSHAN SINGH, J.

CM No.22022-CII of 2016

This is the application for placing on record statement of PW-1
Dharambir.

Heard. Application is allowed.

Statement of PW-1 Dharambir (Annexure A-1) is taken on
record.

FAO No.3065 of 2016

The present appeal has been preferred by appellant - TATA
AIG General Insurance Company Limited (respondent No.3 in the claim
petition) against the award dated 06.01.2016 passed by the learned Motor
Accidents Claims Tribunal, Jhajjar (hereinafter called the "Tribunal"), vide
which respondents No.1 to 4 - claimants have been awarded compensation
to the tune of Rs.18,67,380/- on account of death of Vinod Kumar in the

motor vehicular accident which took place on 11.10.2013.

2. The present appeal has been preferred by appellant - Insurance Company to assail the award.

3. I have heard learned counsel for the appellant and have gone through the record of the file meticulously.

4. Learned counsel for the appellant - Insurance Company contended that the learned Tribunal has wrongly determined the income of the deceased to be Rs.12,000/- per month. He contended that as per the case of the claimants, deceased Vinod Kumar was running the shop of sports articles and was earning Rs.20,000/- per month. He contended that the claimants have not produced any documentary evidence to show that the deceased was running any such shop. He further contended that even in the cross-examination PW-1 Dharambir the father of the deceased has admitted that the said shop belongs to his friend. Thus, he contended that there was no evidence to show that deceased was the owner of that shop and the income of the deceased determined by the learned Tribunal is highly exaggerated.

5. I have duly considered the aforesaid contentions.

6. As per the case of the claimants, the deceased was 28 years of age. He was a player of international standard. He was also carrying on the business of manufacturing of sports goods in the name and style of M/s Rohilla Rajput Sportswear. So, the deceased was a sportsman and was also running the shop of the sports articles at Rewari Road, Jhajjar. PW-1 Dharambir father of the deceased has not been questioned regarding the

occupation of the deceased. Mere this fact that PW-1 Dharambir has stated in the cross-examination that the shop belongs to his friend, is no ground to show that deceased was not running the business of selling the sports articles. It may be possible that the shop owned by the friend of PW-1 Dharambir father of the deceased was on rent with the deceased.

7. The deceased was a good sportsman in game of Taekwondo and was also running the shop of sports article. So, it cannot be stated that the income of the deceased *i.e.* Rs.12,000/- per month determined by the learned Tribunal is exaggerated or unreasonable. The income of the deceased so determined by the learned Tribunal seems to be reasonable and justified.

8. No other point was raised by learned counsel for the appellant at the time of the arguments.

9. Thus, the present appeal being devoid of merits, is hereby dismissed.

26.10.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No