

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

FAO No.3367 of 2016(O&M)

Date of decision:4.7.2016

National Insurance Company

....Appellant

VERSUS

Manjeet Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Present: Mr. R.C. Gupta, Advocate for the appellant.

REKHA MITTAL, J.

The present appeal has been directed against the award dated 05.11.2015 passed by the Motor Accident Claims Tribunal, S.A.S. Nagar, Mohali (for brevity 'the Tribunal') whereby respondents No.1 to 4 have been awarded compensation in regard to death of Shamsher Singh son of Bakshish Singh in a motor vehicular accident on 12.03.2015 near village Chuhar Majra.

Counsel for the Insurance Company (hereinafter referred to as the Company) has assailed the award primarily on two counts. The first submission made by counsel is that the respondents/claimants failed to adduce tangible and convincing evidence that car bearing registration No.HR-01-AH-0637 insured with the Company caused the accident resulting in death of Shamsher Singh. To substantiate his contention, it is argued that Darshan Singh, the alleged eye-witness to the occurrence, neither helped the injured to be shifted to a hospital nor reported the matter

to the police, sufficient to discard his testimony. In the First Information Report (in short 'FIR') lodged by father of the victim, there is no reference to the registration particulars of the offending vehicle.

Another submission made by counsel is that the Tribunal has wrongly allowed benefit of future prospects to the extent of 30% by relying upon judgment of Hon'ble the Supreme Court of India Rajesh and others Vs. Rajbir Singh and others, 2013 ACJ 1403 (S.C.) as the matter with regard to grant of benefit of future prospects to a self-employed person is pending consideration before a Larger Bench in view of the reference made in Reshma Kumari and others vs. Madan Mohan and another, (2009) 13 SCC 422.

I have heard counsel for the appellant, perused the paper-book particularly the award passed by the Tribunal.

Darshan Singh (PW2) appeared in the witness-box and supported the averments made in the claim petition that the accident was caused due to rash and negligent driving of the offending vehicle owned by Randheer Singh son of Baljeet Singh. The witness was cross-examined at length but nothing tangible and fruitful was elicited to substantiate contention of the appellant that he was not a witness to the accident. There is nothing on record suggestive of the fact that Darshan Singh (PW2) is in any manner related to the claimants much less being interested in award of compensation. The mere fact that Darshan Singh did not report the matter to the police only indicates his indifferent attitude towards his duty but is not sufficient to falsify and belie his plea that he was present at the spot. It has been proved on record that after due investigation of FIR (Ex.P1),

challan has been presented in the Court and Parveen Kumar-respondent No.1, driver of the offending vehicle, has been put to trial.

In view of the above, I find myself unable to accept the submissions made by counsel for the appellant that testimony of Darshan Singh is not sufficient to discharge the onus of issues No.1 and 2 framed by the learned Tribunal.

So far as the plea that the matter with regard to entitlement of the claimants to benefit of increase in income by taking into consideration future prospects is concerned, the said benefit has been allowed by Hon'ble the Supreme Court in Rajesh and others case (supra) relied upon by the learned Tribunal. Mere fact that the matter with regard to grant of future prospects is pending consideration before a Larger Bench would not suffice to deny the said benefit till the matter is finally decided by the Larger Bench.

No other point has been raised.

In view of what has been discussed hereinabove, finding no merit, the appeal is dismissed in *limine*.

As the appeal has been decided on merits, the application for condoning delay of 105 days in filing the appeal is of academic relevance only.

JULY 4, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE