

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

**FAO No.4264 of 2016 (O&M)
Date of Decision: July 28, 2016.**

Oriental Insurance Company Limited

.....APPELLANT(s).

VERSUS

Prabhnoor Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. JS. Chatrath, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This is appeal by Oriental Insurance Company against the award passed by the Motor Accident Claims Tribunal, Hoshiarpur (later referred to as 'the Tribunal') awarding compensation of ₹18,07,000/- for the death of Amritpal Singh (later referred to as 'the deceased'), father of claimant No.1, son of claimants No.2 and 3 and grand son of claimant No.4, in a motor vehicle accident with truck bearing registration No.PB-08AM-1615 (later referred to as 'the offending vehicle').

2. During the course of arguments, learned counsel for the appellant has challenged the award on two grounds, firstly, that FIR No.149 dated 20.12.2014 relating to this accident, was registered at Police Station Bullowal on the statement of Paramjit Singh, claimant for offences punishable under Sections 304, 307, 271, 201 and 427 IPC, which show that

it was not a case of accident but the driver of the offending vehicle has voluntarily hit and caused the death of the deceased, consequently, provision of Section 166 of Motor Vehicles Act are not attracted so as to enable the claimants to claim compensation. Learned counsel for the appellant has also assailed the award for allowing 50% addition of income towards future prospects with submission that this matter is still pending before larger Bench of Hon'ble Apex Court.

3. While recording the findings on issue No.1 as to whether the accident was caused due to rash and negligent driving of offending vehicle by respondent No.1, the Tribunal observed in para 10 of the award as follows:-

“10. I have heard the learned counsel for the parties and have also gone through the record of this case. Paramjit Singh complainant/eye witness duly proved that accident occurred due to rash and negligent driving of offending vehicle driven by respondent No.1. First information report has been duly proved on record vide Ex.CW1/A. Despite lengthy cross-examination of this witness, his testimony could not be shattered. It is held that claimants have duly proved that accident took place due to rash and negligent driving of respondent No.1. ”

4. It is apparent from the observation recorded by the Tribunal that the claimants have been able to prove that the accident was caused due to rash and negligent driving of the offending vehicle by respondent No.1. The mere fact that FIR was got registered for offences punishable under Sections 304, 307 IPC, is no reason to doubt the findings recorded by the Tribunal. It is quite understandable that temper run high on the death of

young son and the parents want the person who has caused the death to be

awarded maximum punishment. Out of rage, annoyance and anger, the version on an incident sometime is exaggerated. While appearing as PW1, claimant Paramjit Singh who is an eye witness had deposed that accident took place due to rash and negligent driving of the offending vehicle by respondent No.1. His statement recorded in the FIR was at the most his previous statement, giving account of the incident regarding which he had deposed before the Tribunal and could be used for confronting him with the same.

5. Learned counsel for the appellant submits that Paramjit Singh was not confronted with his previous statement. Consequently, I find no reason to differ with the findings recorded by the Tribunal in para 10 of the award as discussed above.

6. The point of award of addition in the income of the deceased towards his future prospects has already been discussed in detail while disposing of *FAO No.4292 of 2015 decided on 01.09.2015, FAO No.4683 of 2011 decided on 18.12.2015, FAO No.2032 of 2014 decided on 06.04.2016 and FAO No.6595 of 2011 decided on 27.05.2016*. It has been observed that addition in the income of deceased is to be made keeping in view the inflationary trend in which we all are living. The Tribunal has rightly applied the observations in case of *Rajesh and others Vs. Rajbir and others (2013)9 SCC 54*, while awarding addition in income of deceased towards future prospects. The view taken in the above case was upheld by Hon'ble Apex Court in case of *Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447*.

7. As a sequel of my above discussion, the submissions made by

learned counsel for the appellant are rejected. Consequently, the appeal filed by the appellant-insurance company has no merits.

Dismissed.

July 28, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

√
Yes/No

Whether Reportable:

√
Yes/No