

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

FAO No. 4270 of 2016(O&M)

Date of decision: 29.07.2016

Reliance General Insurance Company Ltd. ...Appellant

V/s.

Sunita Devi and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL.

Present: Mr. Subhash Goyal, Advocate for the appellant.

REKHA MITTAL, J. (Oral).

The present appeal lays challenge to award dated 29.04.2016 passed by the Motor Accident Claims Tribunal, Jhajjar (in short 'the Tribunal') whereby compensation has been awarded in favour of Sunita Devi and others, respondents No. 1 to 3 in regard to death of Virender Kumar son of Ujagar in a motor vehicular accident occurred on the intervening night of 4/5-7-2011.

Counsel for the appellant has challenged the award primarily on two grounds. The first submission made by counsel is that the FIR in the case was registered at the instance of Sumit Kumar son of deceased Virender on 05.07.2011 against an unknown vehicle. It is further argued that later the respondents/claimants manipulated evidence of Jaipal (PW-2) the alleged eye-witness to prove the accident. In addition, it is submitted that in view of the contents of the FIR (Ex. P-2), testimony of Jaipal (PW-2) is not sufficient to discharge the onus of issue No. 1, laid upon the respondents/claimants.

Another submission made by counsel is that the learned Tribunal has allowed benefit of increase in income for future prospects despite the fact that the matter with regard to grant of future prospects in case the victim was in self employment or working on fixed wages is pending consideration before a larger Bench of Hon'ble the Supreme Court in view of reference made in the case of ***National Insurance Company Limited v. Pushpa and others*** (SLP (civil) CC No. 8058 of 2014).

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

It is true that FIR in this case was registered at the instance of Sumit Kumar, son of the deceased. It is not the case of the claimants/respondents that Sumit was present on the spot and was an eye-witness to the occurrence. Jaipal (PW-2) appeared in the witness box to prove the accident. There is nothing on record suggestive of the fact that Jaipal is in any way related to the claimants or had any interest in success of the petition preferred by Sunita Devi and others. It has also been established on record that after due investigation of the FIR registered at the instance of Sumit, challan has been presented in the Court for trial of Rambir Singh, driver of the offending vehicle. Rambir Singh did not appear in the witness box to counter the testimony of Jaipal (PW-2). Counsel for the appellant has failed to point out any material and tangible fact in the cross-examination of Jaipal to establish that his testimony is not worthy of credence or he was not present at the spot at the time of occurrence.

In this view of the matter, I do not find any error much less illegality in the findings recorded by the Tribunal holding in favour of the respondents/claimants that the accident in question took place due to rash

and negligent driving of car bearing No. HR-26AD-6345 by its driver Rambir Singh-respondent No. 5.

So far as extending benefit of increase in income for future prospects, the mere fact that the matter is pending before a larger Bench of Hon'ble the Supreme Court, is not sufficient to deny the benefit till the time the judgment in *Rajesh and others* versus *Rajbir Singh and others* 2013 (3) RCR (civil) 170 is set aside.

No other point has been raised.

In view of the above, I do not find any error much less illegality in the impugned award warranting intervention. The appeal is accordingly dismissed.

(REKHA MITTAL)
JUDGE

July 29, 2016
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No