

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: August 24, 2017

FAO No. 1251 of 2000 (O&M)

United India Insurance Co. Ltd.

..Appellant

Versus

Smt. Savitri Devi and others

..Respondents

FAO No. 1252 of 2000 (O&M)

United India Insurance Co. Ltd.

..Appellant

Versus

Smt. Dharampal Dixit and others

..Respondents

FAO 1617 of 2000

Dharam Pal Dikshit

....Appellant

Versus

Dinesh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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Present: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the appellant-insurance company.

None for the claimant

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos. 1251, 1252 and 1617 of
2000 as identical question of law and facts are involved for adjudication.

For facility of reference, facts are taken from FAO-1251-2000.

FAO 1251-1252 of 2000

The sole submission made by counsel for the insurance company is that as driver of Tractor bearing chassis no.10711248470, driven by Satpal was holding a licence to drive Scooter/Motorcycle/ Car/Jeep, he did not possess a valid licence to drive a tractor attached with trolley. It is further submitted that as the driver did not possess a valid driving licence, insurance company is entitle to be exonerated from its liability or, in the alternative, it should be given right of recovery against the insured after satisfying the award towards the claimants.

I have heard counsel for insurance company and perused the paper book particularly the award impugned.

The contention raised by counsel for the insurance company is not tenable in the light of judgments of Hon'ble the Supreme Court of India *Negashetty v. United India Insurance Co. Limited 2001 (4) R.C.R. (Civil) 597* and latest enunciation laid down in *Mukund Dewangan v. Oriental Insurance Company Limited, 2017(7) Scale 731*.

In this view of the matter, contention of the appellant-insurance company is not tenable and liable to be rejected.

For the forgoing reasons, both the appeals filed by the insurance company fail and accordingly dismissed.

FAO 1617 of 2000

The injured victim is in appeal seeking enhancement of compensation in regard to injury sustained by him in a motor vehicular

accident that took place on 10.05.1997.

The Tribunal awarded Rs.73,033.00, detailed hereunder:-

Expense on treatment and medicines	43,033.00
Pain and suffering	15,000.00
Disability to the extent of 15%	15,000.00

Counsel for the appellant would contend that compensation awarded by the Tribunal qua disability as well as pain and suffering is inadequate and liable to be enhanced. The Tribunal has not awarded any compensation for loss of income owing to disability, loss of amenities of life and on account of expenses of transportation, special diet and assistance of an attendant.

Counsel representing insurance company has supported the award with the submission that adequate compensation has been awarded by the Tribunal.

I have heard counsel for the parties, perused the paper book and the records.

Dharam Pal Dikshit, the injured victim was approximately 57 years old at the time of occurrence. He was working as Principal in a College at Samalkha. He has categorically stated in his examination-in- chief that after accident, he joined his duties on 30.09.1997. It has been further deposed by him that during the period he did not attend his duties but he had been getting pay. On a query raised by the Court, counsel for the appellant has fairly informed that due to receipt of injuries causing disability to the extent of 15%, the injured did not suffer loss of his job and he continued working with the College as Principal till the age of retirement. Under the

circumstances, the injured cannot stake any claim for loss of income during the period of treatment and recovery or subsequent thereto.

The injured has suffered disability to the extent of 15%, stated to be permanent in nature. As per disability certificate Ex.P25 proved by Dr. Pankaj Aggarwal from Civil Hospital Panipat, the disability is because of *mild stiffness of left hip with tibia condola* (sic). In view of nature of disability suffered by the victim, he is awarded an amount of **Rs.30,000.00** qua disability.

Dr. Pankaj Aggarwal has deposed that there is no chance of improvement of disability with passage of time and due to disability, patient shall experience difficulty in moving. The claimant is awarded an amount of **Rs.30,000.00** for loss of amenities of life.

The injured victim got treatment as an indoor patient from Civil Hospital Panipat, Gandhi Hospital and thereafter from Holy Family Hospital Delhi. The Tribunal has not awarded any compensation for expenses on transportation, services of an attendant, special diet etc. In view of period of treatment in the hospitals coupled with the nature of injury sustained by the victim, the appellant is awarded **Rs.10,000.00** for expenses on transportation, services of an attendant, special diet etc. The additional amount of **Rs.55,000.00** shall be payable with interest at the rate of 7% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

24.08.2017
mohan bimbura

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