IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1719-2001 (O&M)
Date of decision: 23.03.2017

New India Assurance Co. Ltd. …. Appellant

Versus

Santosh Garg and ors. ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vinod Gupta, Advocate, for the appellant.

Mr. Sanjiv Gupta, Advocate, for the respondents-claimants.

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Rajan Gupta, J. (Oral)

This order will dispose of the appeal filed by the Insurance company as well as cross-objections preferred by the claimants against the award dated 05.03.2001 delivered by the Motor Accident Claims Tribunal, Sirsa.

Accident occurred on 09.05.1997 at about 10.00 A.M. One Tilak Raj was driving a Maruti car. Car struck against the truck. All occupants of the car received injuries. One of them, namely, Ravi Garg died on the spot. FIR was also registered regarding the accident. Tribunal framed issue No.1 whether cause of death of Ravi Garg was rash and negligent driving by the driver of the offending vehicle. It came to the conclusion that vehicle was being driven in a rash and negligent manner. However, there was composite negligence on the part of the driver of the truck as well.

The Insurance company has urged before this court that insurer of the truck was not impleaded as a party. Thus, award is erroneous in nature.

Mr. Gupta, learned counsel appearing for the claimants has, however, relied upon a judgment reported as ***Oriental Insurance Company Limited Versus Monika Verma and others, 2008(3) RCR (Civil) 693.*** According to him, in a case of composite negligence, the claimants are entitled to recover compensation from any of the joint *tort-feasors.*

I find substance in the plea. The appeal filed by the Insurance company is, thus, without any merit and is hereby rejected.

<u>X-Obj-2001:</u>

The claimants have claimed that 1/4th of the income should have been deducted as personal expenses and dependency should have been assessed at 3/4th. Besides, future prospects should also have been considered.

I accept the plea regarding dependency. Even learned counsel for the Insurance company submits that it would be in consonance of the judgment in ***Sarla Verma versus Delhi Transport Corporation, 2009(3) RCR (Civil) 77.*** Thus, multiplier of 15 would be applicable. Applying the same, compensation would stand enhanced by another sum of Rs.90,000/-. The appellants would also be entitled to interest as awarded by the tribunal. As regards claim of future prospects, I do not find any merit in this plea. Claimants did not file any independent appeal. Only when notice was issued in the appeal, preferred by insurance company, they filed cross-objections. Besides, deceased was employee of bank and died in harness. Thus, it can be safely presumed that his family would be entitled to pensionary and other benefits under the rules. He cannot claim the same for the second time from the insurance company. Cross-objections are, thus, dismissed in this respect.

(RAJAN GUPTA)
JUDGE

March 23, 2017
Sukhpreet/Rajpal

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No