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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2309-2011 (O&M)
Date of decision : 24.11.2017

Navtej Singh and another

... Appellant(s)

Versus

Surjit Singh and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sushil Saini, Advocate
for the appellants.

Mr. Vikas Mohan Gupta, Advocate
for respondent No.2.

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AMIT RAWAL, J. (ORAL)

The present appeal has been preferred by the appellant against the award dated 11.11.2010 of the learned Motor Accident Claims Tribunal, Amritsar (in short 'the Tribunal'), whereby a compensation to the tune of ₹ 3,94,000/- on account of death of Ranjit Kaur @ Rano, who was a pillion rider on a motor cycle bearing registration No.PB-46-E-7425, driven by Surjit Singh, who is none-else, but her husband, on the ground that the liability to pay compensation should have been fastened upon the Insurance Company/respondent No.2, with whom, the vehicle was registered.

Mr. Sushil Jain, learned counsel appearing on behalf of the appellants submits that on 15.10.2008, Ranjit Kaur @ Rano, being a pillion rider on the aforementioned motorcycle, driven by Surjit, met with an accident with one truck and as a result of which, she sustained the injuries and died at the spot. An FIR No.148 dated 15.10.2008 under Section 279, 304-A IPC was registered on the statement of Surjit Singh, therefore, the Insurance Company, which has issued the Insurance Policy, is liable to pay the compensation as the pillion rider of the motor cycle would be a third party.

He further submits that the compensation to the tune of ₹ 3,94,000/- is too meagre. Moreover, no increase was made in the salary towards future prospects and the amounts of ₹ 5,000/- towards loss of estate and ₹ 5,000/- for funeral expenses are also on lower side, thus, there is scope for enhancement.

On the contrary, Mr. V.M. Gupta, learned counsel appearing on behalf of respondent No.2/Insurance Company submits that Hon'ble the Supreme Court in ***"National Insurance Company Ltd. V/s Balakrishnan and another" (2013) 1 Supreme Court Cases 731***, by relying upon the instructions dated 16.11.2009 and 03.12.2009 issued by IRDA, has held that in the absence of comprehensive policy i.e. "act policy" and the premium is paid only for personal accident of owner and driver, the pillion rider would not be a third party and therefore, not entitled to the compensation and this is what has been held by the Tribunal.

He further submits that the Tribunal has taken care of all the heads of claim sufficiently, therefore, there is no scope for further enhancement, thus urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Sushil Saini, viz-a-viz the fastening upon the liability upon the Insurance Company in view of the *ratio decidendi* culled out by

Hon'ble the Supreme Court in ***Balakrishnan's case*** (supra).

Concededly in the present case, the policy was an "act policy" and compulsory premium of ₹ 50/- towards personal accident of the owner and the driver limiting to ₹ 1 Lac, had paid. The schedule of the premium is extracted hereinbelow:-

Schedule of Premium

B: T.P. Basic	300.00
For Third Party Property Damage of 6000 IMT-20	-50
Compulsory PA to Owner-Driver Amount 100000	50
Stamp Duty	1.00
Total Liability Premium	300

As regards the amount of compensation, there is no further scope for enhancement of compensation as the Tribunal has taken care of all the heads of claim sufficiently and therefore, the same cannot be faulted with.

Keeping in view the aforementioned facts and circumstances, I do not find any illegality and perversity in the findings rendered by learned Tribunal, much less, no ground is made out for interference and accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

24.11.2017
Yogesh Sharma

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**