# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3264 of 2012 (O&M).
Decided on:-March 23, 2017.

Reliance General Insurance Company Limited.
.........Appellant.

Versus

Subhash and others
.........Respondents.

***CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.***

Present:- Mr. Arun Sharma, Advocate for
Mr. Tajender K. Joshi, Advocate
for the appellant.

Mr. Chanderhas Yadv, Advocate
for respondent No.5.

***HARI PAL VERMA, J.***

The appellant-insurance company has filed the present appeal against the award dated 21.02.2012 passed by learned Motor Accidents Claims Tribunal, Jhajjar (hereinafter called as the Tribunal), whereby the claim petition filed by the respondents No.1 to 4-claimants was accepted, and claimants were held entitled for compensation.

The claimants have filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, the MV Act) seeking compensation on account of death of Tulsi Ram, who suffered injuries in a vehicular accident occurred on 15.03.2011, resulting into his death.

Respondents-claimants are sons and daughters of deceased Tulsi Ram, who was aged about 60 years. His income was assessed by the Tribunal @ Rs.4,000/- per month i.e. Rs.48,000/- per annum. While making deduction of 25% of the income, the effective contribution of Tulsi Ram to the claimants has been assessed as Rs.36,000/- per annum. The deceased being 60 years of age, multiplier of '9' has been applied. In this manner, loss of income to the claimants has been calculated as Rs.3,24,000/- (36,000 x 9). Another amount of Rs.20,000/- towards funeral expenses has also been added to the compensation making it Rs.3,44,000/-.

Learned counsel for the appellant-insurance company has argued that the respondents-claimants were not dependents upon deceased Tulsi Ram. But this fact has not been considered by the Tribunal. Even otherwise, the claimants have not adduced any cogent evidence regarding income of deceased Tulsi Ram, but still his income has been assessed by the Tribunal as Rs.4,000/- per month without any material on record. The claimants being major sons and daughters of the deceased were not dependents upon him. He has relied upon the judgment of this Court in ***Narender Nayyar Versus Sheodan Singh and others (2014-4) PLR 286***. Reliance has also been placed upon another judgment of this Court in ***FAO No.1556 of 2012*** titled as ***Reliance General Insurance Co. Ltd. Versus Dharam Singh and others*** decided on 02.04.2014. He has further relied upon ***Smt. Manjuri Bera Versus The Oriental Insurance Company Limited and another 2007(2) RCR (Civil) 675*** to contend that when there is no loss of dependency to the claimants, they being the legal representatives of the deceased are entitled to compensation of Rs.50,000/- only in terms of Section 140 of the MV Act.

I have heard learned counsel for the appellant-insurance company.

The primary argument as raised by learned counsel for the appellant is that since the claimants were major and there is no loss of dependency, the award passed by the Tribunal needs to be set aside.

Hon'ble Apex Court in ***Santosh Devi Versus National Insurance Company Limited and others 2012(2) RCR (Civil) 882*** has held that the observation of the Tribunal that claimants are not entitled for compensation as they were not minor, cannot be accepted more particularly when during the cross-examination of the appellant, no such question was put to the appellant about source of sustenance of the claimants.

Therefore, merely because the claimants in the present case are major children of the deceased, the claimants cannot be deprived from the compensation on account of death of their father, unless the appellant-insurance company proves that they were not the dependents upon the deceased. Since the appellant-insurance company has failed to establish that the claimants were not dependents upon the deceased, the judgments cited by learned counsel for the appellant-insurance company in ***Narender Nayyar's case (supra), Reliance General Insurance Company Limited's case (supra)*** and ***Smt. Manjuri Bera's case (supra)*** are not applicable to the facts and circumstances of this case.

In ***Ikattar Singh and another Versus Dalvir Singh and others 2016(2) Law Herald 1851***, this Court has held that the sons, even if they are majors, cannot be considered as irrelevant and are entitled for compensation for the death of their father. It has further been held that in a typical social condition in India, a father has a decisive role to play for guidance and affection of the sons, even if they have attained the majority. The father is a guiding source and could not have spent all the money on himself and he keeps on making contribution to his family. Similarly, in ***Suryakant and others Versus Shivnarayan Baghel and others 2011(17) RCR (Civil) 195***, Hon'ble Chhattisgarh High Court has held that the claimants were major sons of the deceased and even one of the son was also granted compassionate appointment after the death of deceased in the motor accident, the compensation awarded to the legal heirs by the Tribunal was held valid.

Therefore, this Court does not find any illegality in the impugned award dated 21.02.2012 passed by the Tribunal. There is no merit in the present appeal and the same is, accordingly, dismissed.

**(HARI PAL VERMA)**
**JUDGE**

**March 23, 2017**
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No