

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

FAO No. 4603 of 2012

DATE OF DECISION : 18.09.2017

ICICI Lombard General Insurance Company Limited

.... APPELLANT

Versus

Shree Bhagwan and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. R.S. Dhull, Advocate,
for the appellant.

Mr. M.S. Kathuria, Advocate,
for respondent No.2.

* * *

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 24.12.2011 passed by the Motor Accident Claims Tribunal, Rewari (for short 'the Tribunal').

2. The Insurance Company has filed this appeal and the only issue raised and pressed at the time of hearing is that the Tribunal has awarded compensation to the major sons and daughters of the deceased, as being major they were not entitled to compensation.

3. The brief facts necessary for adjudication of the present appeal are that on 28.11.2009, Budh Ram lost his life in an accident. He was a pillion rider on motor cycle bearing registration No. HR-14C-8460 being

driven by Peeru alias Peerdan. A trolly bearing registration No. HR-56-5836 was the offending vehicle. The injuries suffered by Budh Ram in the said accident proved fatal and he died on the spot.

4. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by son of the deceased claiming compensation. Two other sons and three daughters of the deceased were impleaded as perma respondents.

5. The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 1,45,000/- as compensation to three major sons and three major daughters of the deceased in equal shares along with interest at the rate of 6% per annum.

6. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

7. Learned counsel for the appellant argued that son of the deceased, who filed the claim petition, was major and he could not claim compensation as he was not a dependent of the deceased.

8. The issue raised by the appellant is no longer res integra. This court in **Gurdev Kaur and others Vs. Jharmal Singh and another**, 2017 (3)

PLR 8 has held as under :-

“There is no rebuttal to the statement of appellant-claimant Smt. Gurdev Kaur the widow of deceased Mam Raj that she and her two sons are living jointly. Meaning thereby both the sons were living jointly with their deceased father. No doubt both of them are major and are doing the private job. One of them is getting the salary at

the rate of Rs.7000/- to Rs.8000/- per month and the other is getting salary at the rate of Rs.10,000/- to Rs.12,000/- per month. So, it is not a case where the sons of the deceased were drawing big salaries and they were not in need of any contribution to the family by their father. It is an admitted fact that even if a son is major and is earning, he does not stop looking to his father for financial help. The sons, even if they are major, do not lose the status of legal representatives, about which there is a reference in Section 166 (1)(c) of the Motor Vehicles Act, 1988 (for brevity the "Act"). Therefore, even the major sons and daughters are entitled to maintain the claim petition on the death of their father.

In the above decision, it has been held that even if children of the deceased are major, they do not loose the status of legal representatives, about which there is a reference in Section 166 (1) (c) of the Act. Therefore, even the major sons and daughters are entitled to maintain the claim petition on the death of their father.

9. In view of the decision referred above, the plea raised by learned counsel for the appellant is bereft of any merit.
10. No other plea has been raised.
11. Appeal is, accordingly, dismissed.

September 18, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes