IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

FAO No.2198 of 2013 (O&M)
Date of decision: February 09, 2017

Shri Ram General Insurance Co. Ltd. ... Appellant

Versus

Smt. Puran Devi & others ...Respondents

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**

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

Mr. S.P. Chahar, Advocate for respondent No.1 to 4.

Mr. Trishu Singh, Advocate for respondents No.5 & 6.

Rajan Gupta, J.

CM-10536-CII-2013:

This is an application for condonation of 115 days delay in filing the appeal. For the reasons mentioned in the application, same is allowed. Delay in filing the appeal is condoned.

FAO-2198-2013:

Appellant Shri Ram General Insurance Company Limited has impugned the award dated 24.09.2012, passed by Motor Accident Claims Tribunal, Nuh, whereby compensation has been awarded to the claimants on account of death of Udal in the accident.

Learned counsel for the appellant has argued that deceased was travelling while sitting on the roof of three wheeler and he himself was liable for the accident, thus, the claimants were not entitled to any compensation. At the most, accident was result of contributory negligence of the deceased.

Plea has been opposed by counsel for the respondents. They submit that the tribunal has rightly allowed the claim petition.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

Accident occurred on 22.11.2010, wherein Udal, husband of appellant No.1 and father of appellants No.2 to 4 had died. FIR No.574 dated 23.11.2010, under sections 279, 304-A IPC was registered at Police Station Nuh against respondent No.1. A claim petition under Section 163-A of the Act was filed by the claimants. In support of their case claimant Puran Devi appeared as PW1 and also examined five other witnesses. On appraisal of evidence, the tribunal came to the conclusion that deceased died in a road side accident by using the vehicle in question. As regards quantum of compensation, the tribunal observed that deceased was 28 years of age at the time of accident. The tribunal as per second schedule has taken income of the deceased as Rs.40,000/- per annum. By deducting $1/3^{rd}$ of his income as expenses for livelihood, it applied a multiplier of '17' (wrongly mentioned as '18' by the tribunal) and granted compensation of Rs.4,53,334/-. Adding Rs.2000/- for funeral expenses, Rs.2500/- for loss of estate and Rs.5000/- towards loss of consortium, claimants were granted a total compensation of Rs.4,62,834/- along with interest @ 6% per annum from the date of filing of petition till realization.

There appears to be no apparent error in appraisal of evidence by the tribunal. In my considered view, there is no infirmity with the findings arrived at by the Tribunal. The insurance company did not adduce any evidence to prove that driver of the vehicle was not holding a valid driving licence or that the accident was result of contributory negligence of the deceased. The appeal is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

February 09, 2017
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No