IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4793 of 2013 (O&M)
Date of decision:-16.08.2017

Shri Ram General Insurance Company Ltd. ...Appellant

Versus

Raksha Sharma and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.T.K.Joshi, Advocate, for the appellant.

Mr.Sagar Aggarwal, Advocate, for
Mr.Ashit Malik, Advocate, for
respondents No.1 to 4- Cross-objectors.

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RITU BAHRI, J. (Oral)

CM No.19803-CII of 2015

For the reasons stated in the application, delay of 494 days in filing the cross-objection is condoned.

Application stands disposed of.

Main Case

The appellant-Insurance Company has come in appeal against the Award dated 15.02.2013 passed by learned MACT, Kurukshetra, vide which the claim petition of respondents No.1 to 4 was allowed and a compensation of Rs.11,90,000/- was awarded along with 7.5% interest from the date of filling of petition till realization.

The appellant-Insurance Company has challenged the said Award on the ground that the insured vehicle had failed to produced on record copy of route permit. The appellant/Insurance Company had given an application seeking a direction to the driver and owner of the insured truck to produce the original route permit of the vehicle. The respondent No.5/driver-owner was unable to furnish the permit of the vehicle before the MACT. This fact clearly proves that the insured vehicle was being driven by its driver/owner without any route permit and this was violation of the terms and condition of the insurance policy and as such, the insurance company-appellant was not liable to pay any compensation to the claimants.

Learned counsel for the respondents No.1 to 4 has made a reference of the judgment of the Co-ordinate Bench of this Court in the case of **Gian Chand Vs. Iqbal Hassan and Others 2014 (3) RCR (Civil) 965**, whereby, the offending vehicle i.e. Truck was good carrying vehicle. It was owned by the appellant and was plying in District Yamuna Nagar and the accident also occurred in District Yamuna Nagar. After going through the judgment passed by this Court, it is held that the absence of route permit by itself cannot be a ground for denying liability of the insurance company. Section 149 of the Motor Vehicles Act contemplates a violation for purpose of permit and does not cover the case of unavailability of valid route purpose permit at the relevant time of accident to exonerate the insurance company. In view of the above facts, the challenged of the Insurance Company is dismissed.

The cross-objection has been preferred by the claimants-respondents No.1 to 4 against award dated 15.02.2013, passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') vide which compensation to the tune of Rs.11,90,000/- was awarded to the claimants/respondents No.1 to 4 on account of death of Pawan Kumar.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 46 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. As per income tax return for the assessment year 2007-08 and 2008-09, the gross income of deceased was 01.05.665 as shown in Ex.P1 and Ex.P2. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Salary per month (Rs.10,000/-	Rs.1,20,000/- per year
2.	Loss of dependency 1/4th	Rs.1,20,000/- --- Rs.30,000/-= Rs.90,000/-
3.	Annual loss of dependency after applying multiplier	Rs.90,000/- X 13=Rs.11,70,000/-
4.	Transportation	Rs.10,000/-
5.	Loss of consortium	Rs.10,000/-
	Total	Rs.11,90,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to the enhanced, in view of the judgment "**Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54; 'Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459';** Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Salary per month (Rs.10,000/-)	Rs.1,20,000/- per year
2.	Future prospect (30%)	Rs.1,20,000/- + Rs.36,000/-= Rs.1,56,000/-
3.	Loss of dependency 1/4th	Rs.1,56,000/- --- Rs.39,000/-= Rs.1,17,000/-
4.	Annual loss of dependency after applying multiplier	Rs.1,17,000 X 13=Rs.15,21,000/-
5.	Last rites	Rs.25,000/-
6.	Loss of consortium	Rs.10,000/-
7.	Love and affection Widow =Rs.1,00,000/- 3 minor children-Rs.50,000/- each	Rs.2,50,000/-
	Total	Rs.18,06,000/-
	Enhanced amount of compensation	Rs.18,06,000/- ---Rs.11,90,000/-=

Resultantly, the enhanced amount of compensation of Rs.6,16,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Kumari Kiran through her father Harinarayan *vs.* Sajjan Singh and others, 2015(1) SCC 539**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

16.08.2017
anil

Whether speaking/reasoned Yes/No
Whether reportable Yes/No