

276 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 611 of 2013 (O&M)
DECIDED ON: MARCH 10, 2017

THE ORIENTAL INSURANCE CO. LTD.

.....APPELLANT

VERSUS

RAJINDER SINGH & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Raj Kumar Bashamboo, Advocate
for the appellant.

Mr. Vaibhav Sehgal, Advocate
for respondent No.1.

Mr. G.S. Salana, Advocate
for respondent No.3

JASPAL SINGH, J

Instant appeal has been directed by the Oriental Insurance Company (for short 'insurance company') feeling dissatisfied with the award dated November 10, 2012 passed by Motor Accident Claims Tribunal, Ludhiana in MACT No. 56 of 24.09.2009 titled as *Rajinder Singh vs. Pawan Singh & others*, whereby, appellant-company has been directed to pay a compensation to the tune of ₹2,04,400/- on account of death of Gurnam Singh father of respondent No.1-claimant in a motor vehicular accident occurred on May 28,

2009 involving truck bearing registration No. PB-23-E-1254 which was being driven by respondent No.2-Pawan Singh and insured with appellant-company.

While assailing the impugned award it has been argued with vehemence by learned counsel for the appellant that the same is absolutely against the evidence available on file and settled canons of law and misappreciation of evidence available on record has resulted into miscarriage of justice. In fact, respondent No.1/claimant has miserably failed to establish either that he is the adopted son of the deceased-Gurnam Singh or that he is/was in any way dependent upon the income of the deceased. Otherwise also, deceased was having agriculture land and after his demise, respondent No.1 has inherited the said land and is enjoying all the fruits of the said land.

Learned counsel for the appellant further contended that learned Tribunal has also fell in error while calculating the amount of compensation. In fact, there is no proof of income and the notional income of the deceased has been taken as ₹3600/- per month and as per Section 163-A (Second Schedule) of the Motor Vehicles Act, the notional income is to be taken as ₹15,000/- per annum. Similarly, application of multiple of 1/10th has wrongly been adopted by learned Tribunal while assessing the compensation to be awarded to respondent No.1 on account of death of his father. In fact, in such a situation the deduction should have been made to the extent of 1/2, thus, the amount of compensation awarded by learned Tribunal vide its award dated November 10, 2012 is proved to be on higher side and the same deserves to be modified.

This Court has given a deep thought to the submissions made by learned counsel for the appellant but find the same to be without any legal or factual substance.

Undoubtedly, the learned Tribunal has arrived at a categorical conclusion that Gurnam Singh has lost his life in a vehicular accident occurred on May 28, 2009 due to rash and negligent driving of truck bearing registration No. PB-23-E-1254 by respondent No.2-Pawan Singh, which was insured with the appellant-company. The deceased was aged about 65 years and was engaged in agriculture work. The agricultural land owned and possessed by him has also been inherited by the respondent No.1-claimant being his adopted son and as such there is no dispute so far as adoption of respondent No.1 by the deceased is concerned. As far as quantum of compensation awarded by learned Tribunal is concerned, no doubt the deceased was 80 years of age as per the contents of autopsy report Ex.P4 but otherwise, he was hale and hearty. It has been specifically deposed by respondent No.1 that the deceased was having an agricultural income besides; he was also earning a sum of ₹5,000/- p.m. approximately by running a dairy farm. Since there was no documentary evidence in this regard, learned Tribunal has assessed the income of the deceased by considering him to be a casual labourer and as such the monthly income of the deceased has been assessed to the tune of ₹3600/- p.m. The deduction of 1/10th has also been rightly made by learned Tribunal because at the age of 80, it cannot be said that the deceased was incurring expenses to the extent of 1/2, as has been projected by the appellant-company. Similarly, the multiplier of 5 has also been rightly adopted by learned Tribunal. Rather it can be said that the amount awarded by learned Tribunal is not apt, just and proper because only an amount of ₹10,000/- has been awarded on account of funeral expenses. However, the claimant feels satisfied with the compensation already awarded by learned Tribunal and he did not opt to prefer any appeal with regard

to inadequacy of compensation. Since, the compensation awarded by learned Tribunal is absolutely in accordance with the evidence available on record and legal proposition, no interference of this Court is justified with the impugned award.

In the light of what has been discussed above, this Court does not find any merit in the instant appeal. As such, it stands dismissed.

No order as to costs.

MARCH 10, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*