IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

FAO No.883 of 2013 (O&M)
Date of decision: February 15, 2017

HDFC ERGO General Insurance Co. Ltd. ...Appellant

Versus

Kiran Devi & others ...Respondents

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

Present: Mr. Subhash Goyal, Advocate for the appellant in FAO No.883-2013 & for respondent No.3 in FAO-2832.

Mr. Rakesh Dhiman, Advocate for the appellants in FAO No.2832-2013 & for respondents No.1 to 7 in FAO-883.

Rajan Gupta, J.(oral)

This order shall dispose of two appeals i.e. FAO No.883 of 2013 and FAO No.2832 of 2013, one preferred by HDFC ERGO General Insurance Company Limited and other by the claimants, against the award dated 28.09.2012, passed by Motor Accident Claims Tribunal, Gurgaon.

On behalf of the insurance company it has been urged before the court that in the FIR and in claim petition number of offending vehicle are not tallied. Moreover, income of deceased has been assessed on higher side. Thus, liability has been wrongly affixed upon the insurance company.

Learned counsel for the claimants on the other hand, has questioned the quantum of compensation as multiplier has been applied on the lower side. Compensation granted under other heads also needs to be enhanced.

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

An accident occurred on 6.2.2011. Azad Kumar Ninala, husband of claimant No.1, father of claimants No.2 to 6 and son of claimant No.7 had died. A claim petition was lodged by them. Tribunal came to the conclusion that accident was a result of rash and negligent driving by driver of the vehicle. Being skilled person, income of the deceased was taken as Rs.6000/- per month and after applying a cut of 1/5th of this amount as personal expenses of the deceased, annual dependency of the claimants was assessed as Rs.57,600/-. By applying a multiplier of 13, claimants were granted Rs.7,48,800/-. As deceased remained admitted in hospital from 6.2.2011 to 13.2.2011, a sum of Rs.1,30,000/- was also granted on account of medical expenses. Adding Rs.5000/- for loss of consortium and Rs.5000/- towards loss of estate and last rites, a total compensation of Rs.8,88,800/- was granted to the claimants. This was directed to be paid with interest @ 7.5% per annum. Neither driver of the offending vehicle nor owner deemed it necessary to enter into the witness-box to rebut the evidence led by the claimants. The eye-witness namely, Bharat Singh fully proved the accident. However, while lodging the FIR, he gave wrong number of the vehicle, but after recording his supplementary statement and conducting the investigation, respondent No.1 was challaned for causing the accident while driving the offending vehicle. The insurance company led no evidence regarding the fact that the vehicle in question was not involved in the accident. Driver of the offending vehicle was holding a valid driving licence and the vehicle was insured with the insurance company. I, thus, find no substance in the plea of the insurance company in this regard. As regards enhancement of compensation, I find no merit in the same as well. The compensation amount along with interest may have disbursed to the claimants long time back. In the facts and circumstances of the case, I do not find any ground to interfere in appellate jurisdiction of this court.

Both the appeals are dismissed.

(RAJAN GUPTA)
JUDGE

February 15, 2017
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No