IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3229 of 2016 (O&M)
Date of Decision: 17.08.2017

Iffco Tokio General Insurance Company Limited ....Appellant

Vs.

Saroj Gupta and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ankur Gupta, Advocate, for the appellants.

Mr.Ashwani Arora, Advocate, for respondents No.1 and 2.

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RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the appellant/Insurance Company against award dated 03.03.2016, passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short, 'the Tribunal') vide which compensation to the tune of Rs.22,09,213/- was awarded to the claimants on account of death of Sushma daughter of late Ganesh Chand Gupta.

On 17.10.2014, the deceased Sushma was going from Ramdarbar to Baltana while sitting on scooter as pillion rider, which was being driven by Ms.Neelu Gupta. At about 3:30 p.m., when they stopped at the Airport light point, at that time, one truck bearing registration No.HR68-3781 came there from back side. It was being driven by the respondent No.1 in very rash and negligent manner. It struck against their scooter. As a result of which, deceased Sushma and Neelu Gupta received serious injuries. They were taken to GMCH-32, Chandigarh from where Sushma was referred to PGI, where, she died on 23.10.2014. A formal FIR Ex.P43 has been recorded regarding this incident.

On notice, joint written statement has been filed by respondents No.1 and 2 taking the plea of objections with respect to maintainability of the claim petition. They have claimed that accident was caused due to fault of Neelu Gupta.

A separate written statement has been filed by respondent No.3/Insurance Company taking the objection with respect to falsehood of claimants ; maintainability of petition; valid driving licence of respondent No.1.

From the pleadings of the parties, following issues were framed vide order dated 05.02.2015:-

1. Whether Sushma daughter of late Ganesh Chand Gupta died in a road side accident caused by the respondent No.1, while driving truck No.HR68-3781 in a rash and negligent manner ?OPP.
2. Whether the claim petition is not maintainable? OPR.
3. Whether the claimants are entitled to receive compensation as prayed for? If so to what extent and from whom? OPC.
4. Whether the respondent No.1 being driver of the above said vehicle was not holding valid and effective driving licence, at the time of accident? OPR3
5. Whether the respondent No.2 had committed breach of terms and conditions of insurance policy, if so, its effect? OPR3.
6. Relief.

The finding on issued No.1 has been given by the learned Tribunal in favour of claimant. As registration of FIR (Ex.P43), Post Mortem Report (Ex.P3), was sufficient evidence to show that the accident was caused due to rash and negligent driving by respondent No.1 and she was taken to GMCH Hospital, Sector-32, Chandigarh, where she was referred to PGIMS, Chandigarh, where she died on 23.10.2014.

The plea taken by the Insurance Company before the learned Tribunal is that the deceased was not wearing helmet at the time of accident but this aspect of the matter was controverted because the death was not occurred on account of injuries on the head of deceased, therefore, the argument of counsel for the respondent/Insurance Company that deceased also contributed negligence, was not attracted in this case.

The compensation has been assessed and granted to the claimants as under:-

Sr.No.	Heads of compensation	Amount
1	Annual Income	Rs.13,800/- X 12= Rs.1,65,600/-
2.	50% future prospect	Rs.82,800/-
3.	Total income of deceased	Rs.2,48,400/-
4.	Personal and living expenses (1/2)	Rs.1,24,200/-
5.	Income after deduction of personal and living expenses	Rs.1,24,200/-
6.	Multiplier	17
7.	Amount of compensation	Rs.1,24,200/- X 17= Rs.21,11,400/-
8.	Medical bills	Rs.72,813/-
9.	Funeral Expenses	Rs.25,000/-
10.	Grand Total	Rs.22,09,213/-

The insurance company has challenged the abovesaid Award on the ground of the evidence to show that the driving licence (Ex.R1) of respondent No.1 was fake at the time of accident which was valid upto

22.12.2016. As per public information from Govt. of Nagaland (Annexure P-2) no information had been sought by respondent/Insurance Company. Counsel for the Insurance Company produced the abovesaid order passed by Govt. of Nagaland, which provides that driving licences were to be issued on Smart Card whereas licence of respondent No.1 was not so but as it had not been proved on record that said licence was fake, thus, respondent No.3 could not be absolved from liability from paying amount of compensation. Moreover, there were no reports from the DTO was produced in which driving licence (Ex.R1) was held as "Fake". As such with regard to validity of the driving licence cannot be interfered by this Court.

After going through the Award of the learned Tribunal, there is no infirmity in the findings recorded with regard to cause of accident and compensation assessed and finding with regard to validity of driving licence. As such, the present appeal is dismissed as such.

(RITU BAHRI)
JUDGE

17.08.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No