

115.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-1385-2017 (O&M)

Date of decision:01.03.2017

SHRI RAM GENERAL INSURANCE CO LTD ... Appellant

versus

SAROJ RANI & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rajbir Singh, Advocate,
 for Mr. Sanjeev Goyal, Advocate,
 for the appellant.

HARI PAL VERMA, J.

The appellant-Insurance Company has filed the present appeal against the award dated 16.12.2016 passed by Motor Accident Claims Tribunal, Panchkula (for short, the Tribunal) whereby the claim petition filed by claimants (respondents No.1 to 3 herein) was allowed and they were held entitled for an award of ₹ 70,77,846/- as compensation on account of death of Pawan Kumar in an accident.

Briefly stated, the claimants-respondents No.1 to 3 have filed a claim petition under Sections 140 & 166 of the Motor Vehicles Act, 1988 for compensation on account of death of Pawan Kumar (husband of respondent No.1, father of respondent No.2 and son of respondent No.3), in a motor vehicular accident which took place on 28.07.2014. As per claim petition, on the intervening night of

27/28.07.2014, Pawan Kumar (since deceased) along with some other persons was going to Bhatinda from the side of Bhawanigarh in his car, being driven by him at a moderate speed on the left side of the road. When they reached Mehlan Chowk, P.S. Chhajli, District Sangrur and were in the process of crossing the road, a truck bearing registration No.HR37A-4504 came from the Sangrur side, being driven by Sukhchain Singh (respondent No.4 herein) at a high speed. The truck struck against their car, due to which, the occupants of the car received serious multiple injuries. Pawan Kumar died on the spot and the other injured were taken to the Civil Hospital, Sunam where postmortem of Pawan Kumar was conducted. In this regard, an FIR was lodged in Police Station Chhajli, District Sangrur.

Before the Tribunal, driver and owner (respondents No.4 and 5 herein) were proceeded ex parte and the Insurance Company-appellant contested the petition. Vide judgment dated 16.12.2016, the Tribunal awarded compensation of ₹70,77,846/- to the claimants-respondents No.1 to 3.

Aggrieved against the above said award, the appellant-Insurance Company has filed the present appeal.

Learned counsel for the appellant has argued that the impugned award cannot sustain in the eyes of law as the son of the deceased could be appointed on compassionate grounds on attaining his majority and would be entitled for other retiral benefits. He has further argued that the car of the deceased-Pawan Kumar was also on

high speed and, therefore, it was a case of contributory negligence on the part of the deceased. The evidence produced by the claimants was of interested witnesses and, therefore, the award needs to be set aside.

I have heard learned counsel for the appellant.

The Tribunal had come to the conclusion that the deceased-Pawan Kumar died due to the injuries suffered by him in the accident which was caused due to rash and negligent driving of respondent No.4-Sukhchain Singh-driver. The deceased-Pawan Kumar was about 43 years of age at the time of accident. His age was supported through PAN Card issued by the Income Tax Department, wherein his date of birth was mentioned as 10.01.1972. He was working as a Chief Ticket Inspector in Railway Department at the time of his death and as per his salary slip for the month of June, 2014 (Ex.P8), his gross salary was ₹ 53,303/- per month, which annually comes to ₹6,39,636/-. The Tribunal, while placing reliance on the judgment of the Hon'ble Supreme Court rendered in **Rajesh and others Versus Rajbir Singh and others-2013 ACJ 1403**, has applied future prospects at 30% considering the age of the deceased. The deceased was an income tax payee and, therefore, his income was subject to tax. The total annual income of the deceased has been calculated at ₹7,34,234/- (i.e. ₹6,39,636/- x 30% increase = ₹8,31,526 - ₹97,292 tax liability = ₹7,34,234/-). From the said amount, 1/3rd has been deducted on account of personal expenses of the deceased, which works out to ₹4,89,489/- (i.e. ₹7,34,234 - ₹2,44,745 (1/3rd) = ₹4,89,489/-). The

deceased was 43 years of age and, therefore, a multiplier of 14 was applied as per the judgment of Hon'ble Supreme Court rendered in *Sarla Verma Versus Delhi Transport Corporation and another-2009 (6) SCC 121* and the loss of dependency works out to ₹68,52,846/-. Besides the said amount, ₹1 lakh was awarded towards loss of consortium, ₹1 lakh for loss of love and affection to the minor child and ₹25,000/- for funeral expenses. In this manner, the total compensation awarded was ₹70,77,846/-.

The plea of the learned counsel for the appellant that the deceased's son would be appointed on compassionate ground is no ground to deny compensation to the victim as no such material has been placed on record by the appellant neither before the Tribunal nor at this stage. The appellant has not placed on record any material to show that there was contributory negligence on the part of the deceased-Pawan Kumar or he was driving the vehicle on high speed.

No other point is argued.

In view of above, this Court does not find any illegality in the award passed by the Tribunal. Accordingly, the appeal filed by the Insurance Company stands dismissed.

(HARI PAL VERMA)
JUDGE

01.03.2017
sanjeev

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