

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

FAO No. 3958 of 2017(O&M)

Date of decision: 15.9.2017

Bharti Axa General Insurance Co. Ltd.Appellant

VERSUS

Varinder Partap Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Abhinav Gupta, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

The present appeal directs challenge against award dated 21.12.2016 passed by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Queency Mayn in a motor vehicular accident that took place on 24.12.2014.

The Tribunal assessed income of the deceased at Rs.13,000/- per month, deducted 50% for personal and living expenses and applied multiplier of 17 to compute loss of dependency. In addition, an amount of Rs.25,000/- towards funeral expenses and Rs.1 lakh each for loss of love and affection to parents of the deceased has been awarded, making total compensation to Rs.22,14,000/- payable with interest.

Counsel for the appellant has assailed findings of the Tribunal on issue No.1 qua rash and negligent driving having been attributed to Varinder Partap Singh, driver of vehicle No.PB11-AS-1220 as well as quantum of compensation assessed by the Tribunal. To challenge findings on issue No.1, it has been urged that the deceased was a pillion rider on a two-wheeler driven by Jagdeep Singh, her father. The driver of offending

vehicle was stated to be under influence of liquor and having caused accident due to his rash and negligent driving. According to counsel, as Jagdeep Singh, father of the deceased did not possess a driving licence to drive motorcycle, the present can be said to be a case of composite negligence, therefore, the insurance company of vehicle No.PB-11-AS-1220 cannot be fastened with entire liability to pay compensation.

With regard to challenge to quantum of compensation, counsel has two-fold submissions to make. The first argument put-forth by counsel is that parents of the deceased are 55 and 62 years old but the Tribunal has applied multiplier of 17 as per age of the deceased. Another submission made by counsel is that the Tribunal has allowed benefit of increase in income for future prospects though the matter in this regard is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. vs. Pushpa, SLP (C) No.16735 of 2014, decided on 02.07.2014.**

I have heard counsel for the appellant, perused the paper-book particularly the award dated 21.12.2016.

The Tribunal recorded findings upholding plea of the claimants that the accident took place due to sole rash and negligent driving of offending vehicle by Varinder Partap Singh. The mere fact that driver of the motorcycle was not possessing a driving licence is not sufficient to attribute negligence to him. Counsel has failed to point out any materials to form the basis for a finding of composite negligence. Assuming that the present is a case of composite negligence, the claimants can claim compensation from any of the vehicles involved in the occurrence. In this view of the matter, contention raised by counsel for the appellant qua findings on issue No.1 cannot be faulted with.

The Tribunal has adopted multiplier of 17 in the light of age of the deceased. Hon'ble the Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77** with a view to bring uniformity in the process of assessing compensation has laid down certain criteria with regard to multiplier to be adopted for different age groups, deductions to be made and benefit of future prospects for regular government employees. While dealing with the question of deduction, Hon'ble the Supreme Court has held that in case the deceased happens to be an unmarried person, deduction for personal expenses would be 50% unless the case falls in exceptional circumstances. However, admissible multiplier for the age bracket of 26 – 30 is 17. Taking into consideration enunciation laid down in **Smt. Sarla Verma's case** (supra), coupled with judgment **Munna Lal Jain and others versus Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447**, it is difficult to accept contention of the appellant that the Tribunal has committed an error by applying multiplier of 17.

This brings the Court to the plea with regard to grant of benefit of future prospects. The deceased was employed as PRT (Computer Training) with Ryan International School, Patiala. Her salary/income has been determined on the basis of documentary evidence. She would not have stagnated at income of Rs.13,000/- per month had she remained alive. I stand fortified to my observation from the fact that salaries in private sector are enhanced from time to time to keep pace with price index moving upward. The mere fact that reference is pending before a Larger Bench before Hon'ble the Supreme Court is not sufficient to deny benefit of future prospects till the judgment in **Rajesh and others**

Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170 is varied or set aside.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 60 days in filing the appeal is of academic relevance only.

SEPTEMBER 15, 2017		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no