

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 5094 of 2017 (O&M)

Date of decision : August 16, 2017

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Reliance General Insurance Co. Ltd.,

.....Appellant

Versus

Smt. Manisha and others

.....Respondents

FAO No. 5077 of 2017

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Reliance General Insurance Co. Ltd.,

.....Appellant

Versus

Amrit Yadav and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. T.K Joshi, Advocate for the appellant.

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RITU BAHRI, J.

C.M No. 15703-CII of 2017

Prayer made in the application is for condonation of delay of 842 days in re-filing the appeal.

For the reasons stated in the application, delay of 842 days in re-filing the appeal is condoned. C.M is allowed.

C.M No. 15704-CII of 2017

C.M is allowed subject to all just exceptions.

C.M No. 15705-CII of 2017

Prayer made in the application is for condonation of delay of 421 days in filing the appeal.

For the reasons stated in the application, delay of 421 days in filing the appeal is condoned. C.M is allowed

FAO No. 5094 of 2017 and
FAO No. 5077 of 2017

The appellant has come up in these appeals against the award dated 30.9.2013 passed by the Motor Accidents Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal'), whereby a compensation of Rs.40,000/- has been awarded to the claimant on account of injuries suffered by her in the accident in Claim Petition No.69 of 2011/2013 and compensation amounting to Rs. 21,51,488/- was awarded to the claimants in Claim Petition No.73 of 2011/2013 on account of death of Devender. The appellant has challenged this award mainly on the ground of quantum of compensation.

Briefly stated the facts of the case are that on 29.11.2010, Manisha along with her husband Devender was going from their village Misri on motorcycle Hero Honda to village Bhindawas. The motorcycle was being driven by her husband. At about 3:00 p.m, when they reached from Village Samaspur to village Loharwara Chowk near school on the main road, a bus bearing registration No. HR-61/9147 being driven at a very fast speed, rashly and negligently by Anil Kumar-respondent no.2 came from the front side and hit their motorcycle. As a result of this collision, Manisha along with her husband fell down on the road and suffered grievous injuries on their persons. Sarjeet Singh who was also on his motorcycle and coming from village Achina had seen the accident gave information regarding this to Ramphal who came on the spot and arranged the vehicle and shifted the injured to PGIMS, Rohtak, where both were

given treatment. But, on account of injuries suffered by them in the accident, Devender succumbed to the injuries on 30.11.2010 and Manisha was discharged on 30.11.2010. On the statement of Sarjeet Singh, a case FIR No. 435, dated 30.11.2010 under Sections 279, 337, 427, 304-A of the Indian Penal Code was registered at Police Station Sadar, Dadri against respondent no.1.

Manisha filed claim petition No.69 of 2011/2013 wherein she pleaded that she suffered multiple and grievous injuries on various parts of her body. She suffered permanent disability in her back due to the injuries suffered in the accident and spent Rs.2,00,000 on her treatment. By way of Claim Petition No. 73 of 2011/2013, Amrit Yadav and Smt. Ram Rati, parents of the deceased respectively and Manisha widow of the deceased claimed compensation on account of death of Devender.

Upon notice all the respondents appeared and filed separate written statements. Upon the pleadings of the parties, the following issues were framed on 20.3.2012:

1. Whether accident took place due to rash and negligent driving of Haryana Roadways bus bearing registration No. HR-61/9147 by respondent no.1 Anil Kumar, resulting into injuries to Smt. Manisha and died Devender son of Amrit Yadav as alleged ? OPP.
2. If issue no. 1 is proved, whether claimant of MACT petition no. 72 dated 26.3.2011/2.2.2012 is entitled for compensation, is so, to what amount and from whom? OPP
3. If issue no.1 is proved, whether claimant of MACT Petition No. 73, dated 26.3.2011/2/2/2012 is entitled for

compensation, if so, to what amount and from whom? OPP

4. Whether petition is not maintainable in the present form?

OPR

5. Whether respondent no.1 was not having a valid driving licence and vehicle in question was being driven in violation of terms and conditions of insurance policy at the time of accident? OPR-3

After going through the evidence led on record, the Tribunal held that the accident which took place on 29.11.2010 was caused only because of rash and negligent driving of Anil Kumar while driving vehicle bearing registration No. HR-61/9147. In Claim petition No. 69 of 2011/2013 titled as 'Manisha Vs. Anil Kumar', a consolidated amount of Rs.40,000/- was provided to Manisha wife of the deceased on account of injuries sustained by her in the accident. In claim petition No. 73 of 2011/2013 titled 'Amrit Yadav etc. vs. Anil Kumar etc.', claimants were held entitled to a total compensation of Rs.21,51,488/- on account of death of Devender. Income of the deceased was assessed at Rs.14,802/-. After 1/3rd deduction on account of personal expenses, the annual dependency qua the claimants was assessed at Rs.9868/- x 12 = Rs. 1,18,416/-. The age of the deceased was 22 years and after applying the multiplier of 18, the compensation came to Rs.21,31,488/-. Loss of consortium, loss of estate, funeral expenses were assessed at Rs.20,000/-. It was further held that at the time of the accident, Anil Kumar was having a valid and effective driving licence and the offending vehicle No. HR-61/9147 was duly insured with the appellant-Insurance Company. All the respondents (in the claim petitions) were jointly or severally held liable to pay the compensation to

the claimants.

Aggrieved with the order of the Tribunal, the appellant has preferred these appeals.

A perusal of the judgment shows that finding on issue no.1 has been rightly answered in favour of the claimants as after the accident, the injured were shifted to PGI, Rohtak where Davender expired. The police reached in the hospital and recorded the case FIR No.435, dated 30.11.2010 under Sections 279, 337, 427, 304-A IPC at Police Station Sadar Dadri. Manisha had suffered certain injuries and had remained admitted in the hospital for five days, suffered fractures and spent sufficient amount on medicines. A consolidated amount of Rs.40,000/- has been awarded by the Tribunal. In the claim petition which was filed by the LRs of the deceased Davender, he was a government employee. Claimants examined Dev Singh , LDC, 128 RCC (GREE) who brought the summoned record pertaining to service of late Devender and stated that late Devender was serving in their Unit as Operator Engine Mechanic. This witness has proved the salary certificate issued by their office as Ex.PW5/A and stated that time to time there were promotion in the job and the annual increments and other increase in the salary was also provided during the job. During cross examination this witness stated that the carry home salary of deceased after deduction was Rs.14,802. He was 22 years of age. The claimants i.e the parents and wife of the deceased were held entitled to a total compensation of Rs.21,51,488/-. The compensation in both the claims petitions has been rightly calculated as per the ratio laid down by the judgment of **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 ACJ 1298 (SC).**

Devender-respondent no.2 (in the claim petition), the owner of the offending vehicle produced the copy of driving licence of Anil Kumar as Ex. R-1 which was issued in the name of Anil Kumar to drive HTV (PE) and was originally issued on 29.3.2006 and valid up to 10.2.2012. As per copy of RC Mark R-2, the vehicle No. HR-61/9147 was owned by respondent no.2 on the date of the accident. As per copy of insurance policy Ex.R-4, the vehicle was insured with the Reliance General Insurance Company Ltd. from 27.11.2010 to 26.11.2011. Hence at the time of the accident Anil Kumar was having a valid and effective driving licence and the offending vehicle was duly insured. The award of the Tribunal does not require any interference of this Court.

In view of all that has been discussed above, present appeals are dismissed.

August 16, 2017
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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No