

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5096-2017 (O&M)
Date of Decision:- 01.08.2017

Iffco Tokio General Insurance Co. Ltd.

.....Appellant

Versus

Kaushalya Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Arora, Advocate
for the applicant-appellant.

RITU BAHRI, J. (Oral)

CM-15710-CII-2017

Heard.

For the reasons mentioned therein, the application is
allowed. Delay of 30 days in re-filing the appeal is hereby condoned.

CM-15711-CII-2017

Heard.

For the reasons mentioned therein, the application is
allowed. Delay of 66 days in filing the appeal is hereby condoned.

FAO-5096-2017

Present appeal has been filed by the appellant-Iffco Tokio
General Insurance Co. Ltd. against an Award dated 12.12.2016, passed

by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal'), whereby the claimants have been awarded a compensation of ₹12,23,440/- on account of death of Didar Singh in a motor vehicular accident, which took place on 21.02.2016.

On 21.02.2016, Didar Singh (since deceased) was coming from Anandpur Sahib towards his village on motorcycle. When he reached petrol pump, village Agampur on Anandpur Sahib, Jhajjar Chowk, a Honda Aviator bearing No.PB-30-F-7177 came from the opposite side and struck against the motorcycle of Didar Singh. As a result of which, Didar Singh fell down on road and received injuries. He was taken to Hospital where he died on 22.02.2016.

In this regard, FIR No.16 dated 22.02.2016, under Sections 279, 304-A and 427 IPC, in respect of the accident in question, was got registered at Police Station Anandpur Sahib against Som Nath, driver of the offending vehicle.

Consequently, the claimants-respondents filed a claim petition before the Tribunal.

Before the Tribunal, on the basis of the evidence led by the parties, the Tribunal has come to a conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.2. The Tribunal has taken the income of deceased as ₹7,200/- per month i.e. as that of a daily wager. Keeping in view the fact that the deceased was 48 years of age, 30% towards future prospects has been awarded and annual income comes to ₹86,400 + 30% (₹25,920) =

₹1,12,320/-. Out of which, 1/3rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to ₹74,880/-/- per annum. Didar Singh (deceased) was 48 years of age, the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of ₹9,73,440/-. In addition to it, further compensation of ₹1,00,000/- was awarded towards love and affection, ₹50,000/- as transportation and funeral charges besides ₹1,00,000/- as loss of consortium. Hence, the claimants-respondents were found entitled to total compensation of ₹12,23,440/- along with interest at the rate of 9% per annum from the date of filing of the petition till today.

Feeling dis-satisfied with the aforesaid Award, the present appellant-Insurance Company has preferred the present appeal.

Learned counsel for the appellant-Insurance Company has challenged the impugned Award only on the ground that future prospects should not have been given as the matter with regard to payment of future prospects in a case of daily wager has been referred to a Larger Bench by Hon'ble the Supreme Court in a case of **National Insurance Co. Vs. Pushpa and others, 2015(9) SCC 166.**

I have heard learned counsel for the appellant and perused the record.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident.

No doubt, the question for grant of future prospects in case of a daily wager is pending before a Larger Bench of Hon'ble the

Supreme Court but there was no stay to grant future prospects till the finalization of the matter.

This Court while dealing with a case of daily wager in **FAO-3743-2016** titled **Santosh Vs. Kailash Chand and others**, decided on **14.07.2017**, has recorded the detailed reasons to grant the future prospects for determining the compensation amount where income is taken at less than ₹10,000/- per month, keeping in view the high rise price in today's time.

Since, the income of deceased has been taken as ₹7,200/- per month in the present case, therefore, no ground to interfere in the impugned Award is made out.

Dismissed.

August 01, 2017
naresh.k

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No