

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5235-2017 (O&M)
Date of Decision:- 03.08.2017

Future Generali India Insurance Co. Ltd.

.....Appellant

Versus

Kamla and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amit Kundra, Advocate,
for the appellant.

RITU BAHRI, J. (Oral)

Present appeal has been filed by appellant-Future Generali India Insurance Co. Ltd. against an Award dated 22.03.2017, passed by Motor Accident Claims Tribunal, Hissar (hereinafter referred to as 'the Tribunal'), whereby the claimants have been awarded a compensation of ₹10,72,360/- on account of death of Ram Mehar in a motor vehicular accident, which took place on 08.03.2014.

On 08.03.2014, deceased Ram Mehar was coming back his home at village Gurana, Tehsil Hansi, District Hisar from Filling Station, Jind Road, Barwala, where he worked at Salesman. He was on his motorcycle bearing registration No.PB-10CJ/2739 and was driving the same at a moderate speed, while observing all the mandatory traffic rules.

At about 8.00 pm, when he reached near the fields of Wazir in village Gurana, Ram Bhagat-driver (respondent No.3) came while driving the offending Sonalika Tractor bearing registration No.HR-20Y/4355 in a rash and negligent manner hit the same into the motorcycle of the deceased. Due to which, Ram Mehar fell down and suffered multiple grievous injuries and died on the spot.

In this regard, FIR No.143 dated 09.03.2014, under Sections 279, 304-A and 427 IPC, in respect of the accident in question, was got registered at Police Station Narnaund against respondent No.3, driver of the offending vehicle.

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

Before the Tribunal, driver (respondent No.3) and owner of the vehicle were proceeded against ex-parte as they did not appear after being served. In the criminal trial, challan was presented against driver as Ex.P2 and he is facing the trial. PW1-Subhash is the witness before whom the respondent No.3 had made an extra judicial confession of his involvement in the accident and he has deposed in this respect by way of his sworn affidavit Ex.PW1/A. PW-4 Paramjit Singh, Ahlmad had proved the fact that driver-Ram Bhagat (respondent No.3) is facing a criminal case, vide FIR No.143 dated 09.03.2014, under Sections 279, 304-A and 427 IPC. Further, learned counsel for Insurance Company has taken the stand that PW-1 Subhash is not the eye witness and the claimants have procured this witness to state that driver made extra judicial confession before him. Even PW-3 Balwan does not disclose the vehicle number and

therefore, the offending tractor has been implanted later on, to claim the compensation falsely. In the written statement, filed by driver-respondent No.3 has admitted the incident and has taken the stand that it was caused due to the rash and negligent driving of the deceased himself. Ultimately 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 of respondent No.3. The claim petition was accepted by the Tribunal and a sum of ₹10,72,360/- was awarded as compensation on account of death of Ram Mehar along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

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

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.

The Tribunal has taken the income of deceased as ₹7,260/- per month i.e. as of a daily wager. Out of which, 1/3rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to ₹4,840/- per month, which came to ₹58,080/- per annum. Ram Mehar (deceased) was between the age group of 27 to 29 years at the time of the accident/death and the multiplier of 17 was applied. Thus, the claimants were found entitled to compensation of ₹9,87,360/-. In addition to it, further compensation of ₹25,000/- was awarded towards

funeral expenses and a sum of ₹10,000/- was awarded towards transportation expenses. ₹50,000/- was awarded towards loss of estate. Hence, the claimants-respondents were found entitled to total compensation of ₹10,72,360/-.

Since, the Tribunal has rightly assessed the amount of compensation, therefore, no ground for interference is made out in the impugned Award.

Dismissed.

August 03, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No