

In the High Court of Punjab and Haryana at Chandigarh

**FAO-5359 of 2017(O&M)
Date of Decision: 11.8.2017**

The United India Insurance Company

---Appellant

versus

Amarjit Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Sanjiv Pabbi, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 18.3.2017 passed by the Motor Accidents Claims Tribunal, Rupnagar (in short “the Tribunal”) whereby compensation has been awarded in regard to death of Ranjit Singh in a motor vehicular accident that took place on 13.4.2015.

Counsel for the appellant has assailed the award primarily on two counts. The first submission made by counsel is that as Ranjit Singh was travelling on mudguard of the tractor, he has contributed in receiving injuries in the occurrence in question, therefore, the driver, owner and insurer of alleged offending bus bearing No. JK-02-AS-6427 cannot be fastened with entire liability.

The second submission made by counsel is that the deceased was 50 years and 2 months old and the appropriate multiplier in the circumstances should be 11 in place of 13, allowed by the Tribunal.

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

The Tribunal framed issue No. 1, reads as follows:-

“Whether Ranjit Singh died in a motor vehicular accident which took place on 13.4.2015 at about 5-30 a.m. in the area of Majra to Balachaur road with vehicle No. JK-02-AS-6427 driven by respondent No. 1 rashly and negligently?OPP

Atma Singh PW1 was examined to discharge onus of this issue. A relevant extract from his testimony reproduced in para 10 of the award is quoted thus:-

“PW1 Atma Singh deposed that on 13.4.2015, he alongwith Ranjit Singh was going to Balachaur from their village Majra Jattan on the tractor trolley. He was driving the tractor at a slow speed on his left side and Ranjit Singh was sitting with him. When they reached ½ km ahead to the village Jamitgarh Bhalla at about 5.30 am, a bus No. JK-02-AS-6427 came from back side. The driver of the bus was driving the bus at a high speed in a rash and negligent manner and struck the same with the back side of the tractor trolley. As a result of which tractor trolley was fallen and turned turtle. Ranjit Singh received multiple serious head injuries, fracture on his body. He was taken to Civil Hospital, Rupnagar but due to serious condition, he was referred to PGI Chandigarh but he died on the way to PGI. The accident had taken place due to rash and negligent manner of respondent No. 2. FIR was registered on the basis of his statement against unknown person. However, it mentions the number of bus as JK-02-AS-6427.”

The Tribunal, on a detailed consideration of testimony of Atma Singh PW1 and contention raised by counsel representing the insurance company that the deceased was sitting on mudguard of the tractor has

negated plea of the insurance company that the insurance company is not liable to pay compensation. Counsel for the appellant has not pointed out any materials on record that either testimony of Atma Singh PW1 is not worthy of credence and reliance or the respondents adduced any evidence to counter his testimony successfully. As per statement of Atma Singh PW1, the offending bus came from behind at a high speed in a rash and negligent manner and struck against back side of the tractor trolley and as a result, tractor trolley had fallen and turned turtle. Under the circumstances, it is difficult to accept plea of the appellant that since the deceased was travelling on mudguard of the tractor, he can be attributed contributory negligence.

The second submission made by counsel for the appellant with regard to multiplier adopted by the Tribunal is untenable in view of the schedule given in the judgment passed by Hon'ble the Supreme Court of India **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** wherein multiplier of 11 is admissible between age bracket of 51 to 55. As the deceased was less than 51 years of age, the Tribunal has rightly applied multiplier of 13.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

11.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No