

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

FAO No.5691 of 2017 (O&M)
Date of decision : 14.09.2017

National Insurance Company Ltd.

...Appellant

Versus

Bimla and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ram Avtar, Advocate for the appellant.

ANIL KSHETARPAL, J.

Insurance Company is in appeal against the award passed by the Motor Accident Claims Tribunal, Karnal.

Learned counsel for the Insurance Company has submitted as under:-

- i) It was a case of contributory negligence and, therefore, the Court ought to have reduced the compensation payable.
- ii) The Court has granted future prospects which is not permissible.
- iii) The deceased was 22 years old unmarried and, therefore, while making the calculation, the age of the parents should have been taken.

I have considered the submissions of the learned counsel.

The Motor Accident Claims Tribunal has found that offending

vehicle was at fault. It has been noticed by the Tribunal that the respondents have not led any evidence. Balwan Singh (father of the deceased namely Pardeep Kumar) is an eye-witness. He has been thoroughly cross-examined. However, the evidence of Balwan Singh could not be shaken. It is a positive case of the claimants which is supported by the evidence of Balwan Singh that offending truck had without any prior indication suddenly applied the breaks and on account of the aforesaid, the accident took place. The deceased was driving the motorcycle and accident had taken place as respondent No.1-driver had suddenly applied the breaks.

In these circumstances particularly when the respondents have not produced any evidence on record, I do not find any force in the submission of learned counsel.

Next submission of learned counsel is that the Court has added 50% towards future prospects. It is well settled in the case of *Rajesh and others Vs. Rajbir Singh and others, 2013 Accident Claims Journal, 1403* that income is liable to be increased by 50%.

In view of the aforesaid, there is no force in the submission of the learned counsel.

Next submission that the deceased was 22 years old unmarried and, therefore, multiplier could be applied only after taking into consideration the age of the parents.

I have considered the submission. However, I do not find any force in the same. Hon'ble Supreme Court in more than one judgment has held that while applying the multiplier, the age of the deceased to be taken into consideration and not of the parents.

For the reasons recorded above, I do not find any good ground to interfere with the findings arrived at by the Motor Accident Claims Tribunal, Karnal.

Appeal is dismissed.

14.09.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No