

In the High Court of Punjab and Haryana at Chandigarh

FAO No.4709 of 2005

Date of decision: October 16, 2018

Harpal Singh and another

..... Appellants

Versus

Urmila Devi and others

..... Respondents

FAO No.4710 of 2005

Harpal Singh and another

..... Appellants

Versus

Jagtar Singh and another

..... Respondents

FAO No.4644 of 2005

Urmila Devi and others

..... Appellants

Versus

Harpal Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Shoaib Khan, Advocate for the appellants.
(in FAO Nos.4709 and 4710 of 2005) and
for respondents No.1 and 2 (in FAO No.4644 of 2005).
Mr. K.S. Dhanora, Advocate for the appellants.
(in FAO No.4644 of 2005) and
Mrs. Shamsheer Kaur, Advocate
for respondent No.7-Insurance Company.
(In FAO Nos.4709 and 4710 of 2005) and
for respondent No.3-Insurance Company
(In FAO No.4644 of 2005)

AJAY TEWARI, J. (ORAL)

Pursuant to order dated 19.09.2018, learned counsel for the Insurance Company has placed on record verification report dated 27.09.2018, which is taken on record as Mark 'A', as per which the driving license of the appellants has been found to be valid.

These three appeals have arisen out of award passed by the Motor Accident Claims Tribunal, Kurukshetra in two claim petitions, one relating to the injuries suffered by Jagtar Singh and the second relating to the death of Ram Sarup. The Tribunal had exonerated the Insurance Company and foisted the liability on the owner and driver holding that the driver did not have a valid license. In the appeals filed by the owner, it has been averred that the Tribunal did not consider the second page of the driving license where on the succeeding page there was a specific endorsement to the effect that the driver was authorised to drive heavy commercial vehicle also. Along with the appeal, application for additional evidence was filed to place on record the verification report, which further verified that the holder of the license was duly authorised to drive heavy motor vehicle (it is in reference to this application that the verification referred to above has been made).

Counsel for the Insurance Company is not in a position to deny that on the succeeding pages of driving license endorsement No.1933 was there as per which the driver was

authorised to drive heavy motor vehicle. Once that is so, in my considered opinion, the application for additional evidence was really not required. However, I do not deem it proper to dismiss the same and consequently allow it.

On this account, the two appeals filed by the Driver are allowed and the recovery rights granted to the Insurance Company are set aside.

Coming to the third appeal (FAO No.4644 of 2005), which has been filed for enhancement of compensation for the death of Ram Sarup, learned counsel has argued that there were five dependents and consequently, the deduction could not have been $\frac{1}{3}^{\text{rd}}$ and but had to be $\frac{1}{4}^{\text{th}}$. Counsel for the Insurance Company has accepted this. He further argued that deceased was 32 years of age and multiplier should be 16 instead of 15. Learned counsel for the Insurance Company has also accepted the same.

He has further argued that as per the judgment of **National Insurance Company Limited Vs. Pranay Sethi and others**, 2017(4) RCR (Civil) 1009, future prospects of 40% have to be awarded. Counsel for the Insurance Company has also accepted this also. Counsel states that under the conventional heads, the Tribunal has awarded ₹10,000/- for consortium and ₹10,000/- for funeral expenses. In view of the combined reading of judgment of **Magma General Insurance Company Ltd. Vs. Nanu Ram @ Chuhru Ram and others** in Civil Appeal No.9581

of 2018 and **National Insurance Company Limited Vs. Pranay**

Sethi and others, 2017(4) RCR (Civil) 1009, appellant No.1 is entitled to a sum of ₹30,000 more as consortium and appellants No.2,3 and 4 are also entitled to ₹40,000/- each as filial consortium and ₹20,000/- more for funeral expenses and transportaion. The apportionment would be as per the order of the Tribunal except that the share given to appellant No.6-father would be equally divided among the other claimants. There would be no restriction on putting any amount in fixed deposit. Interest should remain the same.

The appeals are disposed of in above terms.

Since the main case is decided, pending applications, if any, stand disposed of.

(AJAY TEWARI)
JUDGE

October 16, 2018

jt

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No