

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1854 of 2014
Date of Decision: 21.02.2018

Shri Ram General Insurance Company Limited, Chandigarh
.....Appellant

Vs.

Radha and others
.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Arun Sharma, Advocate, for
Mr.T.K.Joshi, Advocate, for the appellant.

Mr.J.S.Saneta, Advocate, for the respondents No.4 and 5.

RITU BAHRI, J. (ORAL)

CM No.6438-CII of 2014

For the reasons stated in the application, delay of 193 days in
filing the appeal is condoned.

Application stands disposed of.

FAO No.1854 of 2014

The appellant/Insurance Company has come up in appeal against
the Award of the learned MACT, Karnal, dated 22.05.2013 on the short
grounds that deceased was travelling on the roof of the bus and secondly the
compensation which has been awarded to the claimants is on the higher side.

A perusal of the Award shows that the claim petition was filed
under Section 163-A of the Motor Vehicles Act. In this case, the only
accident on account of the use of vehicle needs to be proved and there is not
need to prove any negligence on record. A reference has been made in the
case of **National Insurance Company Vs. Tula Ram and others 2003(2)**

PLR 300, wherein it had been held that the requirement of law under

Section 163-A would be that there should be admission with regard to an

accident arising out of the use of the motor vehicle which should result into death or permanent disablement, then on the basis of the calculation given in second schedule, compensation is to be awarded. In that case where an issue was framed required proof of negligence by the claimant, it was held that the claimants are not required to prove rash and negligent driving. So, the learned Tribunal had rightly considered the issued no.1 in view of the Section 163 of the Motor Vehicles Act and decided the case in favour of claimants.

Secondly, learned counsel for the appellant has argued that compensation has been awarded to the claimants is on the higher side.

The learned Tribunal on the basis of evidence and materials on record, assessed the compensation which is as under:

Sr.No.	Heads of compensation	Amount
1	Income	Rs.3300/-
2.	Deduction 1/3rd	Rs.3300/- --- Rs.1100= Rs.2200/-
3.	Annual loss of dependency after applying the multiplier	Rs.2200/- X 12 X 18 = Rs.4,75,200/-
	Total	Rs.4,75,200/-

A perusal of the above table shows that the income of the deceased was taken as Rs.3300/- per month as per daily wage of a labourer and his age was taken 23 years as per post mortem report Ex.P-6 and multiplier of 18 has been applied as per second schedule under Section 163-A of Motor Vehicles Act. Therefore, learned Tribunal has rightly calculated the compensation which is reasonable and as per law which is not on the higher side.

So in the light of both the aspects as discussed above, the orders of the learned Tribunal does not reflect any material irregularity or perversity

which warranting interference. Hence the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

21.02.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No