

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4399 of 2013(O&M)

Date of Decision: 21.04.2018

United India Insurance Company Limited

... Appellant

Versus

Surjit Kaur & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. D.K. Dogra, Advocate,
for the appellant.

None for the respondents.

RAMENDRA JAIN, J.(Oral)

CM-18300-CII-2013

For the reasons mentioned in the application, the same is allowed. Delay of 15 days in filing the appeal is condoned.

FAO No.4399 of 2013(O&M)

By way of this appeal, Insurance Company has laid challenge to the impugned award dated 22.03.2013 of the Motor Accident Claims Tribunal, Gurdaspur, (in short 'the Tribunal'), whereby respondent No.1 has been awarded compensation of ₹1,72,000/- along with interest @ 9% per annum from the date of filing of claim petition till realization.

Put pithily, on 18.11.2000, unmarried deceased Baljit Singh, son of Charan Singh, aged between 25-30 years, succumbed to his injuries in a motor vehicle accident allegedly caused by respondent No.5 while driving tanker No.HR-38-A-1574 owned by respondent No.4.

Since deceased Baljit Singh was unmarried, therefore, his

married sister aged 55 years namely Surjit Kaur and his two married brothers filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), for compensation on account of death of deceased Baljit Singh, their unmarried brother.

Learned Tribunal after holding trial, granted compensation aforesaid to only respondent No.1, sister of deceased Baljit Singh as during pendency of claim petition, respondents No.2 and 3, his married brothers expired vide impugned award dated 22.03.2013.

Learned counsel for the appellant-Insurance company *inter alia* contends that respondent No.1 being a married sister and aged around 55 years at the time of death of deceased Baljit Singh, could not be treated as his legal heir by the learned Tribunal. The Share of compensation of respondents No.2 and 3 (major) and married brothers of deceased Baljit Singh, who expired during the pendency of claim petition, could not have been ordered to be paid to respondent No.1, their sister. That apart, learned Tribunal has given a categorical finding that the deceased Baljit Singh was not holding any valid licence at the time of driving tanker. Therefore, learned Tribunal has erred in not dismissing the claim petition and awarding compensation to respondent No.1.

Having given anxious consideration to the submission made by learned counsel for the appellant, I find merit in the instant appeal for the reasons to follow.

Respondent No.1-claimant namely Surjit Kaur, sister of Baljit Singh, at the time of his death, was married and aged around 55 years. There is a categorical finding of the learned Tribunal in the impugned award to this effect. Therefore, by any stretch of imagination, she could not have been

treated as a legal heir of deceased Baljit Singh. Respondents No.2 and 3, real brothers of deceased Baljit Singh, who were also major and married, had expired during the pendency of the claim petition. Therefore, learned Tribunal has erred in ordering for disbursement of compensation of their share, if any, to their sister, inasmuch as, she could not have been treated as legal heir of their brothers when they were having their own family. Learned Tribunal has also recorded a categorical finding that deceased Baljit Singh was not having any driving licence. The application of multiplier of 9 assessing the annual income of the deceased at ₹36,000/- by the learned Tribunal is also hypothetical.

In view of discussion made above, the appeal is accepted and the impugned award is set aside. However, it is held that respondent No.1 is only entitled to compensation of ₹50,000/- under no fault liability under Section 140 of the Act.

21.04.2018

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(RAMENDRA JAIN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No