

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.74 of 2013

Date of Decision: 22.03.2018

Oriental Insurance Company Ltd.

.....Appellant

Vs.

Mamta Rani and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vinod Chaudhary, Advocate, for
Mr.Rohit Goshwami, Advocate, for the appellant.

Mr.Abhishek Singla, Advocate, for
Mr.Keshav Partap Singh, Advocate, for respondents No.1 to 3.

Mr.Radhey Shyam Sharma, Advocate, for
respondent No.9.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the appellant/Insurance Company(for short 'the appellant'), against award dated 20.09.2012, passed by the learned Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') vide which the claimants have been awarded compensation to the tune of Rs.17,02,604/- on account of death of Sachin in an accident which took place on 26.10.2008

FACTS NOT IN DISPUTE

On 26.10.2008 at about 6:00 am deceased was travelling as co-passenger in the indica car bearing registration No.HR-12J-4194. That when they reached just fifty step ahead of the canal in village Dhakal, respondent No.1 who was driving his car rashly and negligently had dashed car in which

69A-3691 parked by the respondent No.4. The said Eicher Jumbo No.HR-69A-3691 was stated to be going from Karnal to Tohana and was loaded with sand. In accident, deceased his co-passengers was taken out from the Indica car by passer by. All the injured persons including the deceased were admitted in General Hospital, Narwana, where they were medico-legally examined and were further referred to PGIMS, Rohtak for further treatment. That during the treatment Dr.Sachin expired on 26.11.2008 A case bearing FIR No.219 dated 26.10.2008 was registered with P.S.Sadar Narwana.

On notice, respondents No.1 and 2 filed detailed written statement by taking preliminary objections regarding maintainability and dependency of the claimants and prays for dismissal of the claim petition. Respondent No.3 has filed separate written statement also took a number of preliminary objections regarding maintainability, locus standi and cause of action and liability of insurance company to pay compensation was denied on the grounds that the respondent No.1 was not holding valid and effective driving licence on the date of incident.

On the pleadings of the parties, issues were framed by the learned Tribunal on 22.09.2011. There is no dispute by both the parties with regard to findings on issue No.1 because it is proved that accident took place on account of rash and negligent driving of respondent No.1 and above said FIR was registered.

COMPENSATION ASSESSED BY MACT

With regard to findings on issued No.2, learned Tribunal has taken the income of the deceased-Dr.Sachin as Rs.21,668/- as it has been proved that deceased was working as Medical officer (MBBS) at CHC Punhana, District

Sr.No.	Heads of compensation	Amount
1	Income of the deceased	Rs.21,668/- p.m.
2	Deduction 50%	Rs.21,668/--Rs.10,834/-= Rs.10,834/-
3.	Total loss of dependency after applying multiplier (deceased was 45 to 50 years)	Rs.10,834/- X 12 X 13=Rs.16,90,104/-
4.	Funeral and transportation expenses	Rs.5,000/-
5.	Loss of estate	Rs.7500/-
	Total	Rs.17,02,604/-

Learned counsel for the appellant/Insurance Company contends that the compensation awarded by the Tribunal is too excessive and deserves to be reduced as the claimants are sister and maternal uncle and aunt of the deceased Sachin sought claim of compensation and the learned Tribunal has awarded exorbitant sum by not realizing that none of the alleged legal heirs were dependent upon the deceased and neither they had any locus standi to file the claim petition before the learned MACT. On the other hand, the learned counsel for the respondents/claimants has vehemently opposed the present appeal.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the respondents/claimant has made a reference of the judgment of Hon'ble Supreme Court in the case of P.S.Somanathan and others Vs. District Insurance Office and another 2011(3) SCC 566 wherein, it is held that the deceased was married and he was 33 years old at the time of accident but looking entire family consisting of mother, sister and one brother but High Court took a technical view and assessed the claim only in respect of mother by holding that mother was the

only real legal heirs. The order of the High Court was set aside and held that

claim of entire members of family is to be taken into consideration.

In view of the 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

22.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No