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

FAO no.6673 of 2016 (O&M)

Date of Decision:28.11.2018

United India Insurance Company Ltd.

.....Appellant

Vs.

Meena Devi and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Harsh Aggarwal, Advocate,
for the appellant.

Mr.Karan Singh, Advocate,
for respondents no.1 to 5.

Mr.Vivek Suri, Advocate,
for respondents no.6 and 7.

Dr.Ravi Ranjan, J. (Oral)

This appeal has been filed by the appellant-Insurance Company against Award dated 11.07.2016 passed by the learned Motor Accident Claims Tribunal, Yamunanagar at Jagadhari in MACT case no.35 of 2014.

I have heard learned counsel for the parties and perused the materials on record including lower Court records.

2. It is contended on behalf of the appellant-Insurance Company that there are so many loop holes and discrepancies in the evidence lead by the claimants, thus, it cannot be held that the case has been proved by him regarding the accident by the offending bus.

3. To substantiate the aforesaid submission it is contended that as per as per Ex.R1 information was given to the police by the Medical

Officer of the General Hospital at Ambala City. It is stated that the injured person was brought by one Saurav whose cell phone number was also written there and in the comment it is stated that the injured fell from the bus while trying to catch it when the same was moving. The injured was thereafter, referred to Government Hospital and Medical College, Sector 32, Chandigarh where he was declared brought dead.

That apart, it is also stated that PW-2 Sohan Lal who is the informant, has stated in his cross-examination that he went alone to Chandigarh and his relatives came later on and when he reached hospital in Chandigarh the dead body was lying alone as there was no attendant. He specifically stated that Narender did not meet him in Civil Hospital at Ambala, however, he met him at Chandigarh, where he arrived after 10 minutes of his arrival. However, he had stated that he had lodged FIR on the basis of information disclosed by Narender Kumar, whom he claimed that he was eyewitness to the accident.

4. Learned counsel also draws attention towards the evidence of aforesaid Narender Kumar who had stated that he did not inform the police rather called the ambulance and that he had disclosed the name of the injured to the doctor in the hospital as also the manner in which he sustained injury but he did not disclosed the age and father's name of the injured to the doctor. He has also stated that Sohan Lal did not meet him at Ambala. He went all alone to Chandigarh as none accompanied him. The police met him in Chandigarh and had recorded his statement. He had stated in his cross-examination that, except the police, he did not disclose the manner of accident and the details of the vehicle involved in the accident to anybody.

5. Upon such statements having been made on behalf of the PWs it is urged that a false case has been created as no such accident had occurred and therefore, the appellant-Insurance company cannot be held liable to pay the awarded compensation amount.

However, in my considered opinion the matter has already been discussed in detail by the Tribunal. The FIR has been brought on record. The police report under Section 173 Cr.P.C. has also been submitted on behalf of the police in which the driver of the vehicle has been found driving negligently and rashly and the offending vehicle has also been described. That apart, the Tribunal has taken a view that the MACT cases are of summary nature and, as such, they are not required to be proved like criminal matters beyond all reasonable doubt or reasons or even as a civil case where matter is required to be proved from the point of preponderance of probabilities.

6. If everything has been established by record itself, for example, the accident had taken place and in the investigation the police has also found the manner exactly the same and charge sheet has already been submitted and if the documentary evidence is enough to indicate that death of Mohan Lal had occurred due to rash and negligent driving of the bus concerned by the driver, in my considered opinion there was no occasion for the Tribunal to take a different view of matter. As such, the aforesaid plea of the appellant-Insurance Company does not find favour of this Court.

7. On the calculation of compensation amount also, some dispute is being raised by the appellant-Insurance Company. It is stated that, without any reason stated in the impugned Award, the income of the

deceased has been considered to be Rs.6,000/- per month. According to the learned counsel for the appellant the minimum wages which was admissible in Haryana vide notification by the State Government which was Rs.5,547/- per month at that point of time, so in my considered opinion, such sort of objection is not required to be raised by the appellant-Insurance Company as there is hardly any difference between Rs.5,547/- and Rs.6,000/-. Since the difference is meagre, it would not be proper to intervene in it. Next plea of learned counsel for the appellant-Insurance Company is that more than Rs.70,000/- should not be given under the conventional head as decided by the Constitution Bench of the Supreme Court in “**National Insurance Company Limited vs. Pranay Sethi and others**” 2017 (4) RCR (Civil) 1009

8. However, on going through the calculation it appears that almost all heads have been covered properly and multiplier has also more or less has been chosen correctly but nothing has been said or calculated regarding the future prospects which is also required to be done in view of the same judgment of the Apex Court. On this point learned counsel for the appellant says that there is no appeal or cross-appeal has been filed by the claimants, therefore, this matter is not required to be gone into.

However, in my considered view the legal proposition of the Motor Vehicles Act, 1988, covering the issue is a beneficial legislation under which such compensation is to be given to the dependents of the victim of accident and in “**National Insurance Company Limited vs. Pranay Sethi and others**” 2017 (4) RCR (Civil) 1009 as well as in “**Sarla Verma vs. Delhi Transport Corporation**” 2009 (3) RCR (Civil) 77, Hon'ble Supreme Court has held that compensation under the head of

future prospects is also required to be calculated and admissible amount should be given to the claimants. Therefore, *ex debito justitiae* since admittedly that was required to be added in the calculation, this Court would proceed to modify the amount awarded by making necessary addition, which is as follows:

1.	Income	-	Rs.6,000/- per month
2.	¼ of the income deducted as personal expenses of the deceased	-	6000-1500 = 4500
3.	Add future prospects @ 25%	-	Rs.5,625/- per month
4.	Compensation after multiplier of 14 is applied	-	5625 X 12 X 14 = Rs.9,45,000/-
5.	Loss of love and affection	-	Rs.15,000
6.	Loss of consortium payable to the widow	-	Rs.40,000/-
7.	Funeral expenses	-	Rs.15,000/-
Grand Total		-	Rs.10,15,000/-

Hence, the total compensation awarded now by this Court, to the appellants is Rs.10,15,000/-, which is only Rs.14,000/- more than what is awarded by the Tribunal.

The amount of compensation would carry interest @ 8% per annum, running from the date of filing of the claim petition to the date of actual realisation thereof.

Accordingly, the aforesaid Award dated 11.07.2016 of the Tribunal stands modified to the aforesaid extent.

The appeal stands disposed of.

November 28, 2018

dharamvir

DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO