IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1405 of 2018 (O&M)
Date of Decision: March 19, 2018

IFFCO TOKIO General Insurance Co. Ltd. ...Appellant

Versus

Muskan and another ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mar.Rajan Bhargava, Advocate for
Mr.Vishal Aggarwal, Advocate
for the appellant – Insurance company.

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HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 27.10.2017 passed by the Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 27.6.2016 in the area of Village Barsu, District Ambala a vehicular accident took place involving Car No.HR-94C-9400 (herein for short 'the offending vehicle'), wherein, the respondent Muskan, a student of 8th class, suffered injuries. One D.K.Gupta alias Devendra Kumar lost his life in the accident. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle by respondent No.2 Rajinder Kumar.

On filing a claim petition for the injuries suffered by Muskan, the Tribunal awarded the following compensation :-

Sr.No.	*Particulars*	*Amount (In rupees)*
1.	*Special Diet/hospitalization etc.*	*1,000/-*
2.	*Pain and suffering*	*5,000/-*
3.	*Medical bills*	*38,170/-*
	Total amount	*44,170/-*

Ld. Counsel for the appellant – insurer has contended that the negligence of the driver of the offending vehicle was not proved and that the compensation awarded is excessive.

Having heard learned counsel for the appellant and going through the paper-book, I find no merit in the submissions raised on behalf of the appellant.

So far as the issue of negligence of the driver of the offending vehicle is concerned, the same was considered in FAO No.1303 of 2018 IFFCO TOKIO General Insurance Company Ltd. Vs. Shashi Bala and another decided on 07.03.2018 which was an appeal filed by the Insurance Company against the compensation awarded to another injured-claimant in the same accident. The finding of the Tribunal was upheld and the appeal was dismissed. For the same reasons the argument of the appellant in the instant appeal also cannot be accepted.

It has come on record that Muskan was admitted in the hospital on 28.6.2016 and discharged on 29.6.2016. The original medical bills/receipts Ex.P18 to Ex.P22 amounting to Rs.38,167/- were also placed on record.

Considering that the injured was aged about 13 years, studying in 8th standard, who must have undergone pain and sufferings because of the injury suffered in the accident, the Tribunal awarded her Rs.1000/- and Rs.5000/- under the heads of 'hospitalization and special diet, etc.' and 'pain and suffering', respectively. Besides, the amount of medical expenses i.e. Rs.38167/- was also awarded.

In the facts and circumstances, the award of an amount of Rs.44170/- to the injured – claimant cannot, in any manner, be said to be excessive.

Accordingly the appeal dismissed.

It is made clear that this order has been passed on an appeal filed by the Insurance Company without hearing the claimant and is confined to the contentions raised herein. It is without prejudice to the rights of the claimant to separately agitate for enhancement on any ground that may be available to her.

March 19, 2018 **(HARINDER SINGH SIDHU)**
gian **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No