

In the High Court for the States of Punjab and Haryana
at Chandigarh

FAO No.1575 of 2018 (O&M)

Date of Decision:- 21.05.2018

Bharti Axa General Insurance Co. Ltd.

.....Appellant

Versus

Krishan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Subhash Goyal, Advocate, for the appellant.

GURVINDER SINGH GILL, J.

The Insurance Company has filed this appeal challenging award dated 12.1.2018 passed by Motor Accident Claims Tribunal, Rewari (hereinafter referred to, 'the Tribunal') whereby the claimants who are the parents and minor sister of the deceased aged 18 years have been awarded compensation to the tune of ₹15,42,000/- on account of death of Satender Kumar in a vehicular accident which occurred on 22.8.2016.

The case set up by the claimants is that on 22.8.2016 Satender Kumar (deceased) and his cousin brother Manphool were going on a motorcycle which was being driven by Manphool at a moderate speed and that a car driven by respondent No.1/Sandeep came from opposite side at a high speed, in rash and negligent manner and hit against their motorcycle resulting in death of Satender Kumar.

Learned Tribunal, upon appreciating the evidence led by the parties held that Satender Kumar had died on account of rash and negligent driving on part of respondent No.1/Sandeep and awarded compensation to the

tune of ₹15,42,000/- to the claimants.

Learned counsel for the appellant has submitted that the claim petition has been filed on the basis of false and incorrect facts and though the registration number of the alleged offending vehicle was mentioned as HR-36U-9964 in the FIR whereas in the claim petition the registration number of the said car had been mentioned as HR-36S-3965.

I have considered the aforesaid submission.

In the present case, the FIR was lodged by driver of the motorcycle on which the deceased was sitting as a pillion rider. The FIR was lodged promptly on the day of the accident itself. However, it appears that after investigation of the case, it was borne out that in fact there was a mistake in mentioning of the registration number and that the correct registration number of the offending vehicle is HR-36S-3965. Manphool stepped into the witness box as PW-2 and during cross-examination he has explained the aforesaid error to have occurred on account of the fact that he was in a state of shock. The aforesaid explanation is a very valid explanation bearing in mind the nature of accident where the pillion rider of the motorcycle, which the witness was driving, had died. In any case, I find that respondent No.1/Sandeep has himself not stepped into the witness box to rebut the assertions of the claimants regarding the accident having occurred on account of rash and negligent driving on his part. In these circumstances, I do not find any infirmity in the findings regarding negligence of respondent No.1 as recorded by the learned Tribunal and the same are hereby affirmed.

As regards the quantum, I find that the learned Tribunal while noticing that the deceased intended to pursue ITI stream, assessed his notional income to be ₹10,000/- per month and added 40% to the same on account of

prospects of increase in income, in future. The said addition on account of future prospects to the tune of 40% is in tune with the dictum of Hon’ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi, 2017 ACJ 2700 and as such, I do not find any infirmity in the same. Even the multiplier has been appropriately assessed to be 18 bearing in mind the fact that deceased was aged 18 years. Consequently, compensation assessed as ₹15,42,000/- by the learned Tribunal does not warrant any interference.

No other argument has been raised or urged before this court.

In view of the aforesaid circumstances I do not find any merit in the appeal and the same is hereby dismissed.

May 21, 2018
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No