

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1623 of 2018

Date of Decision: 27.03.2018

United India Insurance Company Ltd.

....Appellant

V/S

Bimla and Others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. V. Ramswaroop, Advocate,
for the appellant.

RITU BAHRI, J.(Oral)

CM No.6212-CII of 2018

For the reasons mentioned in the application, same is allowed
and delay of 29 days in filing the appeal is condoned.

Accordingly, present application stands disposed of.

Main Case

This appeal has been filed by the appellant against the Award
passed by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as
'the Tribunal') dated 14.11.2017, whereby claimants-respondents awarded
total compensation of Rs. 15,31,307/- on account of death of Sunder Singh
in a motor vehicular accident which took place on 05.09.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 05.09.2015, Sunder Singh,
since deceased, was riding motorcycle bearing registration No. RJ-

13SE/1459 and was coming from ITO chowk side and was going to his village Kalwas. He was followed by Mahesh son of Pirthi Singh (PW4), resident of village Kalwas. When at about 2/2.20 PM deceased Sunder Singh reached near cremation ground, sector 16-17, Hisar, the offending motorcycle bearing registration No. HR20V-0870(hereinafter referred to as offending vehicle) being driven by respondent No.1 in a rash, negligent and zig zag manner came from front wrong side and hit the motorcycle of the deceased Sunder Singh. Due to which, Sunder Singh fell down on the road and received multiple serious injuries on his person. The accident was witnessed by Mahesh. Mahesh took the injured Sunder Singh firstly to Sapra Hospital from where he was referred to medicity Hospital after giving him first aid, where he succumbed to his injuries on 06.09.2015. In this regard an FIR No. 767 of 2015, Police Station Civil Lines, Hisar Ex. P5 which shows that it was lodged on 06.09.2015.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by driver. Claimants deposed that at the time of accident/death, deceased was 27 years of age at and he was working as milk vendor.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the prevalent law at that time, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.10,000/-
(ii)	40% added towards future prospects	Rs.10,000+4000=14,000/-
(iii)	50% deducted towards personal expenses	Rs.14,000-7,000=7,000/-
(iv)	Multiplier applied	Rs.7000X12X17=14,28,000/-
(v)	Medical bills	Rs.73,307/-
(vi)	Compensation towards loss of loss of estate	Rs. 15,000/-
(vii)	Compnesation towards funeral expenses	Rs.15,000/-
	Total compensation	Rs.15,31,307/-

Feeling aggrieved with the impugned award, the appellant-insurance company preferred the present appeal on two grounds (i) that as per the version of PW4-Mahesh who was informant of FIR Ex. P6, has stated that road on which both the vehicle were collapsed, blocked due to construction and all the vehicles were going only one side of the road. And (ii) on the question of quantum that amount of compensation awarded by the Tribunal is on higher side by taking salary of Rs.10,000/- per month.

In the present appeal parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 1.

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

A perusal of the award shows that, in the cross examination of PW4 -Mahesh where he stated that it was a case of head collusion where both the drivers were negligent. Moreover, no evidence has been led by the appellant to prove this fact.

However, driver of the offending vehcile has not stepped into the witness box to support his case on oath or to offer himself for corss examination. Hence this ground is not made out. On the question of

quantum that Tribunal took the salary of the deceased at Rs.10,000/-p. m.
keeping in view the Minimum Wages prevalant at that time when accident
was occurred, so Rs. 10,000/- p.m. is not on higher side.

Hence, the impugned Award, the orders of the learned Tribunal
does not reflect any material irregularity or perversity which warranting
interference. Hence the present appeal stands dismissed.

27.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

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