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

**FAO No.1773 of 2018 (O&M)
Date of decision: 05.04.2018**

Bajaj Allianz General Insurance Company Ltd. ….Appellant

Versus

Karamjit Kaur and others ….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Vandana Malhotra, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

CM No.6821-CII of 2018

For the reasons mentioned in the application, same is allowed and delay of 26 days in filing of the appeal is condoned.

FAO No.1773 of 2018

Bajaj Allianz General Insurance Company Limited-appellant has come up in appeal against the award dated 06.11.2017 passed by the Motor Accident Claims Tribunal, Tarn Taran (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.3,99,000/- has been awarded in favour of claimants-respondent Nos. 1 to 6 on account of death of Kulwant Singh in a motor vehicular accident which took place on 22.11.2015. Respondent No. 1 is widow, respondent Nos. 2 to 5 are children and respondent No.6 is mother of deceased Kulwant Singh.

Brief facts of the case are that on 22.11.2015, Kulwant Singh (since deceased) along with Sahib Diyal was going towards Patti on a motorcycle (Platina) bearing registration No. PB-09-M-6365. Sahib Diyal was driving the said motorcycle, whereas Kulwant Singh was a pillion rider. Darshan Singh son of Rattan Singh, real brother of Kulwant Singh, was also going from his village towards Patti on a separate motorcycle. At about 9.00/9.30 A.M., when they reached near village Thakarpura, a stray cow came running on the road at a very high speed. Sahib Diyal tried to save the cow. In the meantime, a truck bearing registration No. WB-23-B-9928 being driven by Bhagwant Singh-respondent No.7 (respondent No.1 in claim petition), came from the opposite side and struck against the motorcycle, as a result of which, Kulwant Singh and Sahib Diyal fell down. Kulwant Singh died at the spot and Sahib Diyal sustained multiple injuries. Their motorcycle was also damaged. Sahib Diyal was taken to Guru Nanak Devi Super Speciality Hospital, Goindwal Sahib Road, Tarn Taran. However, later on he succumbed to the injuries. With regard to the accident, DDR No.18 dated 22.11.2015 was registered at Police Station, Patti. Consequently, claimants-respondent Nos.1 to 6 filed a claim petition before the Tribunal.

On the basis of the evidence led by the parties, the Tribunal came to a conclusion that Kulwant Singh had died in a motor vehicle accident, which occurred due to collision between the offending vehicle and the motorcycle of the deceased. This finding has been given on the basis of deposition of Darshan Singh (CW-1), who was an eye witness of the accident. In the absence of any documentary proof, income of deceased was assessed as Rs.3000/- per month i.e. Rs.36,000/- per annum. Out of this income, 1/3rd amount was deducted towards personal expenses of the deceased. By doing so, remaining amount came to Rs.24,000/- per annum. The deceased was 40 years of age at the time of death/accident. Accordingly, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.3,84,000/-. In addition to this, Rs.5000/- were awarded as funeral expenses, Rs.5000/- to claimant No.1-widow on account of loss of consortium and Rs.5000/- towards loss of estate. Hence, a total compensation of Rs.3,99,000/- was awarded in favour of the claimants. Feeling dissatisfied with the impugned award, appellant-Insurance Company has filed the present appeal.

Learned counsel for applicant-Insurance Company has challenged the impugned award on a short ground that compensation awarded by the Tribunal is on the higher side. She has further argued that driving licence of the driver was issued by the Nagaland Government, which was not a valid licence.

Heard, learned counsel for the appellant.

Keeping in view that it was a case of death of a person, the claimant could have also filed the claim petition under Section 166 of the Motor Vehicle Act, which they have not done in this case. After going through the impugned award, this Court is of the view that compensation has been rightly awarded by the Tribunal after appreciating evidence in the right perspective. Since, it is a petition under Section 163-A of the Act, there was no occasion to examine the validity of the driving licence. Moreover, the insurance company-appellant did not take any step to verify the driving licence of the driver. No illegality, much less perversity has been found in the impugned award warranting interference by this Court.

Resultantly, the present appeal is dismissed being devoid of any merit.

(RITU BAHRI)
JUDGE

05.04.2018
ajp

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