

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

123

FAO-3744-2018 (O&M)
Date of Decision : 9.7.2018

The Oriental Insurance Company Ltd.

....Appellant

vs.

Harkesh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Ram Avtar, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the Award of the Motor Accident Claims Tribunal, Kurukshetra awarding an amount of Rs. 29,00,000/- odd as compensation for the death of Aditya Partap Singh in a road accident which took place on 4.8.2015 between a Skoda Rapid car driven by Varun Partap which was hit by a truck insured by the appellant. Since two limited grounds have been raised by the appellant in this appeal, further detailed reference to the facts is not required.

The first argument raised by the learned counsel for the appellant is that the FIR was lodged by one Parduman Singh who was stated to be following them in an another car. Learned counsel has further argued that the said Parduman Singh never appeared to give his testimony. I find from the record that on 30.8.2015 a supplementary statement of one Surinder Singh was recorded by the police who had also seen the accident and that Surinder Singh had duly appeared in the witness box and had

corroborated that the accident was caused by the rash and negligent driving of the truck driver which was insured by the appellant. Despite the lengthy cross examination nothing was extracted from him which could detract from this essential testimony. Consequently, the argument that Parduman Singh did not appear in the witness box would not exculpate the appellant. This argument is rejected.

The second argument raised by the learned counsel for the appellant is that income of Rs. 20,000/- odd has been wrongly taken. The case of the claimant was that Aditya Partap Singh was a Mechanical Engineer (and his educational qualification was duly proved) and he was working in M/s. Eklingjee Polymers Pvt. Ltd. Delhi where he was earning Rs. 1,50,000/- as salary plus Rs.50,000/- as commission per month. The Tribunal noticed that in the appointment letter issued to the said Aditya Partap no salary was mentioned and it was only mentioned that he was entitled only 4% commission on sale. The Tribunal had gone through his bank record and ultimately disbelieved the version of the claimants and held the income to be Rs.20,000/- per month approximately. As per the learned counsel for the appellant this was also excessive. He has relied upon the judgment of the Supreme Court in the matter of M.K.Gopinathan vs. J.Krishna and others passed in Civil Appeal No. 619 of 2010 decided on 17.4.2014. As per the learned counsel for the appellant in that case the Supreme Court had taken the salary of a Mechanical Engineer at the rate of Rs.8,000/- per month.

In my opinion, in the first place the accident in that case had taken place on 15.5.1996. Secondly, the claimant in that case was a

certificate holder and not a degree holder. Consequently, the income of Rs.20,000/- per month of a qualified Mechanical Engineer cannot be taken to be excessive by any standard.

The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

9.7.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No