

New India Assurance Co. Ltd.

.....Appellant

Versus

Lakshmi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBALPresent: Mr. Paul S.Saini, Advocate
for the appellant.**DEEPAK SIBAL, J. (ORAL)**

Through the present appeal filed by the Insurance Company challenge is made to the award dated 10.04.2018 passed by the Motor Accident Claims Tribunal, Karnal (for short, the Tribunal).

Learned counsel for the appellant has raised two issues. Firstly, that since the accident in question was a head-on-collision between the Motor Cycle being driven by the deceased and the Car bearing registration No.HR-05AQ-7781 (for short, the offending vehicle), the deceased was also guilty of contributory negligence and secondly, that the income of the deceased assessed by the Tribunal @ ₹12,000/- per month was on the higher side and not based on any evidence.

Both the issues raised by learned counsel for the appellant have been considered but they do not warrant any favourable response by this Court.

So far as the issue with regard to contributory negligence on the part of the deceased is concerned, neither any site plan nor any statement of any witness has been produced to show that the accident in question was a

result of a head-on-collision. The attention of this Court has also not been

drawn to any evidence on the record which would throw light on the fact that there was any negligence on the part of the deceased in the causing of the accident in question. It is further admitted by the learned counsel for the appellant that in the criminal case lodged against the driver of the offending vehicle, which is pending, the police have filed a report under Section 173 Cr.P.C. in which they have found the driver of the offending vehicle to be driving the same rashly and negligently. Thus, the first issue raised by the appellant is considered and rejected.

So far as the ground taken by the appellant with regard to the assessment of the income of the deceased on the higher side is concerned, through the evidence of PW-1 and PW-2 it was proved that the deceased was working as a Stone Rabber (Ragrai) i.e. he was a person who polished stones, marble, granite etc. after the same are installed in the houses or other commercial areas. After considering the above as also the fact that the accident took place as recently as in April, 2017, the Tribunal went on to assess the monthly income of the deceased to be ₹12,000/-. In the above facts, no error is found in such assessment.

Dismissed.

(DEEPAK SIBAL)
JUDGE

29.10.2018
sandeep

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