

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

**FAO No. 88 of 2019 (O&M)
Date of Decision: 07.02.2019**

New India Assurance Company Ltd.

..... Appellant

VERSUS

Norang Lal and others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Harsh Aggarwal, Advocate,
for the appellant.

JAISHREE THAKUR, J.

1. This is an appeal that has been filed by the Insurance Company against the award dated 02.08.2018 passed by the Motor Accident Claims Tribunal, Fazilka (hereinafter referred to as the 'Tribunal').

2. The claimants-respondents herein, namely Norang Lal being Class-I legal heir and representative of deceased Maria Devi had preferred the claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 (in short the 'Act) against the respondents for compensation of ₹ 20,00,000/- along with interest on account of death of deceased Maria Devi in a motor vehicular accident, which took place on 24.03.2015 in the area of Ganganagar Bypass, near

Tinkoni Burj Muhar, Abohar, Main Fazilka Road, P.S. Sadar, Abohar due to rash and negligent driving of Rakesh Kumar (respondent No. 2 herein) while driving Maruti Alto VXI bearing registration no. RJ 13 CA 7639.

3. Briefly stated the facts are that on 24.03.2015 at about 10.00 am, when they reached near village Burj Muhar Tinkoni, Abohar towards Main Fazilka Road, due to high speed of the vehicle, the driver lost control over the vehicle and car skidded towards left side of the road and struck with acacia (babool) tree. He further alleged that due to this, his mother Maria Devi, Girdhari Lal and his wife Maya Devi suffered injuries. It was further alleged that he (Norang Lal) and deceased Maria Devi also suffered injuries. It was further alleged that his relatives were coming behind them and they got them admitted in Civil Hospital, Abohar. His mother Maria Devi & Girdhari Lal succumbed to injuries suffered in the accident. The said accident took place due to rash and negligent driving of driver of Maruti Alto VXI car bearing registration no. RJ 13 CA 7639. He further stated that thereafter, postmortem of the dead body of Maria Devi was got conducted on 24.03.2015 at Civil Hospital, Abohar. Claimant further stated that DDR no. 25 dated 24.03.2015 was entered at police station Sadar, Abohar. Claimant further stated that accident took place due to rash and negligent driving of respondent no. 2 herein and he had caused the death of Maria Devi.

4. The claim petition was contested by respondents-owner and driver of the offending vehicle by denying all the allegations while stating that the accident was not caused on account of any negligence of the Alto car driver and an additional plea was taken by the Insurance Company that the driver of the offending car was not holding any valid driving licence. Thereafter, issues were framed and the claimant- Norang Lal himself stepped into the witness box as CW-3 and also examined HC Ajmer Singh as CW-1, Ram Kumar as CW-2 and Dr. Sudhir Pathak as CW-4 apart from tendering relevant documents.

5. On appreciation of evidence, the Tribunal held that the deceased Maria Devi died due to injuries suffered by her in the accident which was caused due to rash and negligent driver of the car bearing No. RJ 13 CA 7639 at the instance of the driver. Notional income of Maria Devi was taken to be ₹ 5,000/-per month and keeping in view the fact that deceased Maria Devi was self employed and she was aged about 60 years on 24.03.2015, the Tribunal calculated the compensation on account of death of Maria Devi as under;-

1	Annual Income of Deceased	₹ 5,000/-per month x 12 months = ₹ 60,000/-
2	Applying the multiplier of 9 total compensation comes to	₹ 60,000/- x 9 = ₹ 5,40,000/-.

and by relying upon the law laid down by *Hon'ble Apex Court of India in National Insurance Co. Ltd. Vs. Pranay Sethi and others*

Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017 another amount of ₹ 15,000/- towards loss of estate, ₹ 15,000/- towards funeral expenses was allowed. Consequently, in all a sum of ₹ 5,70,000/- was allowed.

6. It is argued that the claimants are not entitled to the compensation as assessed.

7. I have heard learned counsel for the appellant and with his assistance have also perused the pleadings.

8. Admittedly an accident took place on 24.3.2015 when the car in which the claimant Norang Lal and others were travelling in was hit by another car driven by Rakesh Kumar (respondent No.2). Due to the accident, two persons died, namely Girdhari Lal and Maria Devi, while the others, namely Maya Devi and others suffered injuries. The injured Norang Lal stepped in the witness box as CW-3 to depose about the accident and also examined HC Ajmer Singh as CW-1, Ram Kumar as CW-2 and Dr. Sudhir Pathak as CW-4 apart from tendering relevant documents. It was stated that the driver was rash and negligent in driving his car which resulted in the accident. The Insurance Company was not able to lead any cogent evidence to controvert the statements other than taking the plea that the driver was not holding a valid driving license, which plea was found to be false. Thereafter based on the judgments rendered in ***Pranay Sethi and others*** case (supra) the quantum was assessed.

9. This court does not find any infirmity in the award or in the quantum assessed by the Tribunal, which is based on the judgments of the Hon’ble Supreme Court.

10. Appeal stands dismissed.

07.02.2019

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes.

Whether reportable

No.