

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

**FAO No. 86 of 2019 (O&M)  
Date of Decision: 07.02.2019**

New India Assurance Company Ltd.

**..... Appellant**

**VERSUS**

Maya Devi 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 Maya Devi being widow, Ram Kishan being son and Rita being daughter of deceased Girdhari Lal had preferred a claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 (in short the 'Act) against respondents No.4 & 5 and the appellant herein for compensation of ₹ 30,00,000/- along with interest on account of death of Girdhari Lal 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. 4) while driving Maruti Alto VXI bearing registration no. RJ 13 CA 7639. Girdhari Lal and his wife Maya Devi suffered injuries. Claimants further stated that their relatives were coming behind them and they got them admitted in Civil Hospital, Abohar. It was further alleged that thereafter Maria Devi & Girdhari Lal died due to injuries suffered in the accident. It was further alleged that the said accident took place due to negligence driving of driver of Maruti Alto VXI car bearing registration no. RJ 13 CA 7639. It was further alleged that thereafter, postmortem of the dead body of Girdhari Lal was got conducted on 24.03.2015 at Civil Hospital, Abohar. Claimants further stated that DDR no. 25 dated 24.03.2015 was entered at police station Sadar, Abohar. Claimants further stated that accident took place due to rash and negligent driving of respondent no. 4 herein and he had caused death of Girdhari Lal.

4. The claim petition was contested 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-Devi herself stepped into the witness box as CW-1 and also examined Norang Lal as CW-2, Ram Kumar as CW-3 and Dr. Sudhir Pathak as CW-4 apart from tendering relevant documents.

5. On appreciation of evidence, the Tribunal held that the deceased Girdhari Lal died due to injuries suffered by him in the accident

which occurred with car bearing No. RJ 13 CA 7639 at the instance of the driver, who was driving rashly and negligently. Since there was no substantial proof that the deceased was earning ₹ 30,000/- per month as claimed, Girdhari Lal was treated as a labourer earning ₹ 6347/- per month. Keeping in view the fact that deceased Girdhari Lal was self employed and he was aged about 55 years on 24.03.2015, and 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 the claimants were held entitled to 10% of the income as future prospects.

6. The Tribunal calculated the compensation of the deceased Girdhari Lal as under :-

|   |                                                                                                  |                                               |
|---|--------------------------------------------------------------------------------------------------|-----------------------------------------------|
| 1 | Annual Income of Deceased                                                                        | ₹ 6247/-per month x 12 months<br>= ₹ 74,964/- |
| 2 | Future Prospects 10% of ₹ 74,964/-                                                               | 74,964 + 7496 = ₹ 82,460/-.                   |
| 3 | 1/3rd is to be deducted from the income of deceased as there are two dependents of the deceased. | 82,460 – 27487 = 54,973/-.                    |
| 4 | By applying multiplier of 11 total compensation comes.                                           | ₹ 54,973/- X 11 = ₹ 6,04,703/-.               |

Apart from this, an amount of ₹ 15,000/- towards loss of estate, ₹ 15,000/- towards funeral expenses and ₹ 40,000/- towards loss of consortium were allowed. Consequently, in all a sum of ₹ 6,74,700/- was allowed.

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

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

9. Admittedly an accident took place on 24.3.2015 when the car in which the claimant Maya Devi and others were travelling in was hit by another car driven by Rakesh Kumar (respondent No 4). 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 Maya Devi CW-1 stepped in the witness box to depose about the accident, and also examined Norang Lal as CW-2. 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.

10. 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.

11. Appeal stands dismissed.

07.02.2019

*Satyawan*

(JAISHREE THAKUR)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes.  
No.