IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.1708 of 2019 (O&M)
Date of Decision: March 07, 2019.

Reliance General Insurance Company Limited
..........APPELLANT(s).

VERSUS

Kaushalya and others
........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjeev Kodan, Advocate
for the appellant (s).

Mr. Vicky Sharma, Advocate
for caveators-respondents No.1 and 2.

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SURINDER GUPTA, J.

This is an appeal filed by Reliance General Insurance Company limited against the award dated 20.10.2018 passed by Motor Accident Claims Tribunal, Karnal (later referred to as the tribunal) allowing compensation of ₹30,05,000/- for the death of Narender Kumar son of late Shri Madan Lal in a motor vehicle accident with motorcycle bearing registration No.HR-05AK-3640 (later referred to as the offending vehicle).

Learned counsel for the appellant has assailed the award on two grounds; firstly, the claimants have failed to plead or prove that the accident took place due to rash and negligent driving of the offending vehicle by its driver. While pressing on this point, he has referred to delay of one day in reporting the matter to the police and has argued that the police came to the spot within 10 minutes of accident and no reason has been put forth as to why the FIR was not registered on the date of accident. In the FIR, name of driver of the offending vehicle was not mentioned. It was in the supplementary statement recorded on 16.10.2016, complainant Ashok Kumar disclosed the number of the motorcycle and the name of its driver.

Secondly, he has argued that income of the deceased was taken as ₹2,50,000/- on the basis of income tax return for the financial year 2015-16 instead of taking average income of deceased as shown in income tax return for the financial years 2014-15 and 2013-14.

Learned counsel for the claimants-respondents No.1 and 2, who has put in appearance being caveator has argued that after accident, matter was immediately reported to the police. Complainant Ashok Kumar had taken the deceased to the hospital. In the FIR registered on the next day, the motorcycle number of the offending vehicle was mentioned. However, regarding the name of its driver, the complainant was not aware at that time. He reported his name to the police when respondent No.3-Ish Kumar approached for compromise, as such, there is no delay in reporting the matter to the police. The claimants have alleged that the accident was caused due to rash and negligent driving of the offending vehicle by its driver-respondent No.3 Ish Kumar, who has not stepped into the witness box to rebut the statement of PW3 Ashok Kumar. The claimants have placed on file copies of income tax returns of the deceased for the financial year 2012-13, 2013-14, 2014-15 and 2015-16. In all the income tax returns, there was steady increase in the income of the deceased, as such, it cannot be said that the returns of the deceased submitted for the year 2015-16 was showing his income on higher side.

Firstly, I take the issue of delay in reporting the matter to the police as raised by learned counsel for the appellant. Admittedly, the matter was reported to the police immediately after the accident and DDR No.23 dated 14.10.2016 was registered regarding information of accident. The investigating officer immediately rushed to the spot. FIR regarding the accident was registered at Police Station City Karnal on 15.10.2016 and the best person to depose about the delay in recording the FIR was the investigating officer, who has not been examined by the appellant. Even otherwise, a note can be taken of the fact that a person, who has undergone trauma of witnessing a death in the accident, will take some time to achieve the balance of mind to report the matter to the police. As per the allegations in the FIR, driver of the offending vehicle stopped his motorcycle, came to the spot and then left. In the meanwhile, complainant had noticed number of the motorcycle and got the same recorded in the FIR. It was on the second day after the accident, he disclosed the name of driver in his supplementary statement recorded on 16.10.2016 as Ish Kumar, who had approached him with two other persons for compromise. There is no delay in reporting the matter to the police as the number of the offending vehicle was mentioned in the FIR. Statement of complainant, who appeared as PW3 duly proves that the accident in question was caused due to rash and negligent driving of the offending vehicle. He has stated that Ish Kumar, respondent No.3 was driving the offending vehicle in a rash and negligent manner and hit the motorcycle of the deceased from behind. The above statement is sufficient to prove that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver and the argument of learned counsel for the appellant that claimants have failed to prove the above fact, is without basis.

The accident took place on 14.10.2016. In order to prove income of the deceased, claimants have placed on file income tax returns of the deceased as follows:-

Sr. No.	Income tax return for the assessment year	Income shown
1.	2012-13	₹1,56,410/-
2.	2013-14	₹1,95,230/-
3.	2014-15	₹2,10,860/-
4.	2015-16	₹2,13,470/-
5.	2016-17	₹2,48,560/-

Perusal of the above income tax returns shows that there was steady increase in the income of the deceased and neither of the income tax return shows very high increase in his income. The last income tax return pertains to the assessment year 2016-17 (financial year 2015-16), as such, it cannot be said as increase in any of the income tax return has been manipulated. The tribunal has rightly taken income of deceased as shown in his last income tax return. Tribunal has not only based its conclusion about income of the deceased as documentary evidence on record but has also assessed the quantum of compensation as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009.*** The argument of learned counsel for the appellant that compensation assessed is on the higher side, as such, has no merits.

As a sequel of my above discussion, this appeal has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

March 07, 2019.
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***