

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 533 of 1999 (O&M)
Date of decision: 16.09.2019

National Insurance Co. Ltd.

...Appellant

V/s.

Mrs. Surjit Poonia and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Deepak Chaudhari, Advocate and
Mr. Neeraj Khanna, Advocate for the appellant.

Mr. Ajaivir Singh, Advocate for the respondent.

RITU BAHRI, J. (Oral).

The insurance company has come up in appeal against the award of the Tribunal dated 23.11.1998 whereby compensation of Rs.9,53,500/- has been awarded to the claimants on account of death of Brig. A.S.Poonia, who died in a road accident which took place on 13.02.1996.

Brief facts of the case are that on 13.02.1996, Brig. A.S. Poonia, of Head Quarter Merrut, Sub area Cantonment, Meerut was going from Agra to Lucknow via Kanpur in Gypsy belonging to the headquarter Meerut sub area, which was being driven by him. At that time, he was accompanied by his wife Smt. Surjit Poonia, claimant No. 1. They had left Firozabad behind them and were travelling at a slow speed on their left hand side of the road. The escort car was following the Gypsy. In the meanwhile an ambassador car came from behind the Gypsy and followed by the escort

car. A truck bearing No. UP-78N-1242 being driven by respondent No. 2 came from opposite side. The truck driver brought its truck towards its wrong hand side and first struck against the Gypsy and then against the ambassador car and dragged it till both the truck and ambassador car fell on the side. As a result, the deceased and his wife suffered multiple injuries. Brig. A.S. Poonia succumbed to his injuries at the spot. The accident in which Brig. A.s. Poonia lost his life had been caused by the rash and negligent driving of the offending truck by Jagdish respondent No. 2. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

The insurance company is challenging the award on the ground of quantum of compensation.

Learned counsel for the insurance company has argued that the deceased was 52 years of age and at that time he was drawing Rs.13,755/- p.m. However, the Tribunal had assessed the income of the deceased as Rs.25,000/- p.m. and had also given compensation of Rs.3,50,000/- for the 20% loss of income from 13.02.1996 till the date of retirement of the deceased. Moreover, the deceased was Brigadier at the time of his death still the tribunal had assessed his income as Rs.25,000/- p.m and 50% of this amount had been considered as pension.

I have heard learned counsel for the parties and perused the case file. After going through the award, it transpires that the deceased was Brigadier at the time of death and as per the submission of Brig. S.K. Gupta, PW-4, Director Resettlement, Western Zone, Chandigarh, the deceased was due to be promoted to the post of Major General in July, 1991 vide Army Head Quarter letter dated 05.11.1998 (EX.PW4/1). Keeping in

view the Army Head Quarter letter dated 05.11.1998 (EX.PW4/1), it was for sure that he would be promoted as Major General, the Tribunal had rightly assessed the income of the deceased as Rs.25,000/-p.m. and calculated compensation accordingly.

Hence, no ground to interfere in the award dated 23.11.1998 is made out.

Appeal is dismissed.

Pending application also stands dismissed.

(RITU BAHRI)
JUDGE

16.09.2019
Divyanshi

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