IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 2684 of 2019 (O&M)
Date of decision: 15.07.2019

National Insurance Company Limited ....*Appellant*

Versus

Anita Yadav and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Gopal Mittal, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 11.12.2018 passed by the Motor Accidents Claims Tribunal, Ludhiana (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Santosh Kumar Yadav son of Chhedi Lal in a motor vehicular accident that took place in the intervening night of 20/21.11.2017.

Counsel for the insurance company would inform that appeal has been preferred to assail findings of the Tribunal on issue No.1 with regard to negligence of the offending Truck trailor bearing No. PB 23 M 9471 and quantum of compensation assessed in the case. It is argued that occurrence in question took place when Canter bearing No. PB 10 FF 6744, driven by Santosh Kumar Yadav hit the alleged offending truck from behind. Plea of the claimants is that offending truck was going ahead of Canter driven by Santosh Kumar Yadav and driver of the truck suddenly and abruptly applied brakes, as a result of which, Canter driven by Santosh

Kumar Yadav hit behind the offending vehicle despite efforts made by Santosh Kumar Yadav to avoid collision.

Counsel for the appellant would submit that as the Canter driven by Santosh Kumar Yadav was required to maintain safe distance from vehicle going ahead, contributory negligence is liable to be attributable to the deceased and claimants shall not be entitle to compensation to that extent.

With regard to quantum of compensation, it is argued that income of the deceased has been assessed on the basis of income tax returns but there is no other evidence that the deceased was earning Rs.14,000/- per month.

Indisputably, the occurrence in question took place in the intervening night of 20/21.11.2017 at about 1.30 a.m. Ajay Kumar (CW2), brother of the deceased was examined to substantiate plea of the claimants that occurrence took place due to rash and negligence driving of offending truck as driver of offending vehicle after overtaking the Canter driven by Santosh Kumar Yadav, applied sudden and abrupt brakes in middle of the road without any indication.

Taking into consideration testimony of Ajay Kumar coupled with that driver of offending vehicle kept himself away from the witness box without any tangible explanation, I do not find any reason to differ with findings of the Tribunal on issue No. 1. As a consequence, findings of Tribunal on issue No. 1 are affirmed.

Coming to question of quantum of compensation, the Tribunal has relied upon income tax return for the assessment year 2016-17 Ex C2 proved by Vikas Kumar, Assistant, office of Income Tax, Rishi Nagar, Ludhiana (CW3). Counsel for the appellant, in response to a query, would fairly inform that income tax returns on records for the assessment years 2015-16, 2016-17, proved by CW3 were filed by the deceased himself. In the given circumstances, reliance upon income tax returns while assessing income of the deceased cannot be faulted with.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

15.07.2019
Mohan Bimbra

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