

FAO- 4296 of 2019 (O&M)
Date of Decision: 22.8.2019

IFFCO TOKIO General Insurance Company Limited

---Appellant

versus

Sunita Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajan Bhargava, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 5.3.2019 passed by the Motor Accidents Claims Tribunal, Rewari (in short “the Tribunal”) whereby compensation has been assessed on account of death of Ashish Kumar in a motor vehicular accident that took place on 19.5.2016.

On 4.7.2019, order passed by this court, reads as under:-

“Counsel for the appellant prays for a short accommodation to make submissions after getting hold of copy of the written statement in order to examine if the insurance company had raised any plea that the vehicle in question i.e. Bolero car was not insured on the date of accident i.e. 19.5.2016.

Adjourned to 18.7.2019.”

Counsel for the appellant would fairly inform that in the written statement, there is no such plea raised by the insurance company that vehicle was not insured on the day of occurrence or agent of the insurance

company has issued the policy with retrospective effect. In the given scenario, the appellant cannot be allowed to raise a factual contention for the first time in appeal.

Counsel for the appellant would argue that the Tribunal has assessed loss of dependency by assessing income of deceased at Rs. 15000/- per month but claimants have failed to adduce cogent evidence with regard to his income.

The Tribunal, on a detailed consideration of materials on record particularly certificate with regard to educational and vocational qualification of the deceased, has assessed his income at Rs. 15,000/- per month. I do not find any reason to interfere in assessment of income when examined in view of materials on record.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

22.8.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No