IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Cross Objections No. 158-CII of 2014
FAO No. 1035 of 2014 (O&M)
Date of decision : February 21, 2019

Shriram General Insurance Company Limited .....Appellant

Versus

Saliman and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Akash Sridhar, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Surender Saini, Advocate for
Mr. P.R. Yadav, Advocate
for respondents No. 1 to 5.

Mr. Ram Darshan Yadav, Advocate
for respondents No. 6 and 7/cross objectors.

***

LISA GILL, J.

This judgment shall decide FAO No. 1035 of 2014 as well as cross objections No. 158-CII of 2014 filed by respondents No. 6 and 7 i.e. driver and owner of the offending vehicle.

Present appeal has been filed by Shriram General Insurance Company Limited challenging award dated 31.08.2013 passed by the learned Motor Accident Claims Tribunal, Nuh at Mewat (hereinafter referred to as the 'Tribunal') on two grounds.

Firstly, the quantum of compensation has been challenged to the extent that 50% deduction should have been effected instead of $1/4^{th}$ as the deceased was a Bachelor. Secondly, the insurance company is aggrieved of the direction of the learned Tribunal to pay the amount of compensation with a right to recover the same from respondents No. 1 and 2 i.e. owner and driver of the offending vehicle. It is submitted that the insurance company should be completely absolved of any liability in this case.

Brief facts necessary for adjudication of this case are that respondents – claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rasheed in a motor vehicle accident which took place on 24.04.2009 caused due to rash and negligent driving of jeep bearing registration No. HR-16C-6229 by Javed – respondent No. 6. Claimants are the mother and minor siblings of the deceased Rasheed.

Learned Tribunal on considering the evidence on record, facts and circumstances of the case concluded that Rasheed indeed lost his life in a motor vehicle accident caused due to rash and negligent driving of jeep bearing registration No. HR-16C-6229 by Javed – respondent No. 6. Finding of the learned Tribunal on this issue has attained finality inasmuch as it is not challenged by any of the parties. Learned Tribunal awarded a sum of ₹7,59,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹4,500/- per month being minimum wages of the unskilled labourer in the State of Haryana at the time of the accident. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 18 was applied as the deceased was 22 years old at that time. Additionally, a sum of ₹5,000/- for transportation of the body was awarded, besides a sum of ₹25,000/- on account of funeral expenses.

Learned Tribunal while directing the insurance company to pay the awarded amount, afforded it the right to recover the same from the insured on the ground that the driving licence and registration certificate were not produced.

During the pendency of the present appeal and cross objections, driving licence of respondent No. 6 was produced. Learned counsel for the appellant, insurance company, fairly states that the said driving licence has been verified and is found to be valid and genuine. Report from the Licensing Authority, Nuh, Mewat affirming the genuineness of the driving licence in question has been placed on record as Annexure A1. Keeping in view the facts and circumstances as above, insurance company, it is fairly accepted, is not even entitled to recover the amount from the owner/driver as there is no breach of the terms and conditions of the insurance policy.

In respect to the quantum of compensation, it is noticed that no appeal or cross objections have been filed by the claimants seeking enhancement of the compensation. In the present case, 50% deduction has not been effected keeping in view the fact that the claimants are the widow mother and four minor siblings of the deceased. It has been clearly held by the Hon'ble Supreme Court in ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77 that deduction other than 50% in the case of a Bachelor can be effected in circumstances as existing in the present case where the deceased would naturally be contributing towards his widow mother and four minor siblings. Therefore, there is no infirmity in deduction of $1/4^{th}$ instead of ½ being effected in the facts and circumstances of the case.

No other argument has been raised.

Keeping in view the above, FAO No. 1035 of 2014 is dismissed and cross objections No. 158-CII of 2014 filed by the driver and the owner of the vehicle are allowed.

(Lisa Gill)
Judge

February 21, 2019
rts

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