

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-1286-2014 (O&M)

Date of decision: 23.09.2019

Oriental Insurance Co. Ltd.

...Appellant

Versus

Smt. Rani Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Vinod Chaudhri, Advocate for the appellant.

Mr. Inderjeet Sharma, Advocate
for respondent Nos.1 to 4.

H.S. MADAAN, J.

On account of death of Tarsem Singh, in a motor vehicular accident, which took place on 25.12.2010 in the area in front of Sheela Filling Station, Rajpura, statedly on account of rash and negligent driving of Tata Indigo Car bearing registration No.HR-04-B-9666 (hereinafter referred to as the offending car) by respondent No.1- Mohinder Singh, legal heirs of deceased Tarsem Singh i.e. his widow Smt. Rani Kaur, aged about 38 years, son Tara Singh, minor son Inderjit Singh and daughter Jagdeep Kaur had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents i.e. Mohinder Singh-driver, Rohtash Kumar-owner and Oriental Insurance Company Ltd., Patiala-insurer of the offending car

in question, claiming compensation of Rs.40 lacs.

On being put to notice, all the three respondents appeared and contested the claim petition. On conclusion of trial, the Motor Accidents Claims Tribunal, Patiala, vide award dated 20.11.2013, accepted the claim petition and granted compensation of Rs. 15,99,200/-to the claimants, payable by all the three respondents, jointly and severally, along with interest @ 9% p.a., from the date of filing of claim petition till actual realization.

The Insurance Company felt aggrieved by the award and has approached this Court, by way of filing an appeal, notice of which was given to the claimants/respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Though, in the grounds of appeal, the appellant has taken up a plea that the car in question was not involved in the accident, however, while issuing notice of motion, vide order dated 18.07.2014, this contention has not been accepted. Now the only thing to be seen is with regard to the quantum part. The Tribunal on the basis of evidence adduced before it has taken the age of deceased to be 42 years as mentioned in the post mortem report. CW-1 Rani Kaur, widow of the deceased, had given the age of deceased to be 39 years, stating that he was employed with Punjab Home Guards for the last 15 years and at the time of his death, he was drawing salary of Rs.9000/- per month.

CW-3 Rakesh Kumar Sharma, Assistant Commandant, Home Guards had deposed that as per salary record, the deceased was drawing Rs.300/- per day and his last subsistence allowance was Rs.7560/- for 25 days. The Tribunal had assessed his monthly income to be Rs.9000/-. I do not find any infirmity therewith.

The Tribunal had added 30% of the amount towards future prospects, whereas, in view of the ratio of authority **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017 (4) RCR(Civil)1009**, when the deceased was in the age group of 40-50 years, 25% of the amount is to be increased, keeping in view the fact that he was not a regular employee. Doing that, the monthly income comes out to Rs.11250/-.

Keeping in view the number of dependents, 1/4th of the amount is to be deducted towards personal and living expenses of the deceased. Doing that, the dependency of claimants comes out to Rs.8438/- per month, annual dependency is worked out to Rs.1,01,256/-.

The tribunal has fallen in error in adopting multiplier of 15 instead of 14. Doing that, the total compensation is worked out to Rs.14,17,584/-

The tribunal has granted Rs.1 lakh on account of loss of consortium to the widow of the deceased and Rs.25,000/- towards funeral expenses. However, the claimants are entitled to get a sum of Rs.70,000/- only under the conventional heads. Adding the said

amount, the total compensation is worked out to Rs.14,87,584/-. The interest awarded by the Tribunal @ 9% p.a. is on the higher side. It would be appropriate to grant interest @ 7.5% p.a.

The tribunal has awarded a total compensation of Rs.15,99,200/- which stands reduced to 14,87,584/- with interest @ 7.5% p.a., from the date of filing of claim petition till actual realization. Accordingly, the balance amount of Rs.1,11,616/- (15,99,200 – 14,87,584) be recovered from the claimants proportionately. The appeal stands allowed partly.

23.09.2019

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No