

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

**FAO No.2752 of 2015 (O&M) and
Cross Objection No.199-CII of 2016
Date of decision: 22.08.2019**

Mrs. Jyoti Madan

Versus

....Appellant

M/s United India Insurance Company Ltd. and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Lamba, Advocate,
for the appellant.

Mr. Vishwajit Bedi, Advocate,
for respondent No.1-Insurance Company.

Mr. Rajat Garg, Advocate,
for Mr. Aditya Jain, Advocate,
for respondent Nos.3 to 7-cross objectors (claimants).

RITU BAHRI J. (Oral)

This appeal i.e. **FAO No.2752 of 2015** has been filed by appellant-Mrs. Jyoti Madan (owner of offending vehicle) against the Award dated 17.02.2014 passed by the Motor Accident Claims Tribunal, Palwal, whereby compensation of Rs.21,47,050/- has been awarded in favour of claimant-respondent Nos.1 to 5 on account of death of Devender in a motor vehicular accident, which took place on 13.02.2011. While impugned award, appellant-owner has been made liable to make payment of compensation keeping in view that the driver did not have valid driving licence at the time of accident.

On the other hand, claimants-respondent Nos. 3 to 7 have filed **Cross Objection No.199-CII of 2016** seeking enhancement of the compensation awarded by the Tribunal vide aforesaid award dated

17.02.2014.

Learned counsel for the appellant has argued that the insurance company has examined only one witness namely Raj Kumar Sharma, Licence Clerk, Licensing Authority, Mathura (RW-1). In his cross-examination, he stated that in the record brought by him, only one officer had signed and there was no name and seal on every page. On the photograph, there was stamp of the authority, but no signatures were appended thereon. He further stated that he had not brought the file, on which the driver had applied for issuance of driving licence. Hence, necessary evidence with regard to the driving licence, which was applied by the driver, was never produced before the Court.

Heard, learned counsel for the parties.

As per testimony of Raj Kumar Sharma (RW-1), licence Ex.P11 was not issued in the name Sanjeev Kumar son of Sahab Singh. Rather, it has been issued in the name of Sagar Jaiswal son of Kallu Parshad, resident of H.No.1786, Dampier Nagar, Mathura. He further deposed that the driving licence Ex.P11 was a fake and bogus document. The appellant (owner) did not rebut the evidence led by the insurance company in the shape of RW-1. The appellant could have got information under the Right to Information Act, 2005 from the Licensing Authority, Mathura with regard to the application form submitted by the driver for issuance of above said licence. But, no attempt, in this regard, has been made. Hence, the finding given by the Tribunal that the driving licence Ex.P11 was issued in the name of Sagar Jaiswal son of Kallu Parshad is correct and the said licence was never issued in the name of Sanjeev Kumar, driver of the offending vehicle.

In view of the above discussion, appeal i.e. **FAO No.2752 of 2015** filed by the appellant (owner of offending vehicle) is dismissed.

As far as **Cross Objection No.199-CII of 2016** is concerned, claimants (respondent Nos.3 to 7 herein) seek enhancement of compensation awarded by the Tribunal.

In this case, the fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77, **National Insurance Company Limited vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017), and **Magma General Insurance Company Ltd. vs. Nanu Ram alias Chuhru Ram and others**, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income (as assessed by the Tribunal)	Rs.1,58,300/- per annum
(ii)	40% of (i) above to be added as future prospects	1,58,300 + 63,320 = Rs.2,21,620/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	2,21,620 – 1,10,810 = Rs.1,10,810/-
(iv)	Compensation after multiplier of 18 is applied	Rs.1,10,810/- x 18 = Rs.19,94,580/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the parents (claimant Nos.1 and 2)	Rs.80,000/- (Rs.40,000/- each)
(viii)	Loss of filial consortium to brothers and sisters (claimant Nos.3, 4 & 5)	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	TOTAL COMPENSATION AWARDED	Rs.22,24,580/-

(x)	Enhanced amount of compensation	Rs.22,24,580 – 21,47,050 = Rs.77,530/-
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The enhanced amount of compensation of **Rs.77,530/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of “**Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and others**, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019) (decided on 01.05.2019). Remaining conditions of disbursal of amount shall remain unaltered.

Resultantly, the award stands modified to the above extent, the present appeal i.e. **FAO No.2752 of 2015** is dismissed and **Cross Objection No.199-CII of 2016** is allowed accordingly.

(RITU BAHRI)
JUDGE

22.08.2019
ajp

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