

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-3859-2015(O&M)

Date of Decision: January 18, 2019

United India Insurance Co. Ltd.

.....Appellant(s)

versus

Gobind Singh Rawat and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

Ms. Mansi, Advocate for respondents No.1 to 3.

Mr. Shivam Narang, Advocate for

Mr. Aalok Jagga, Advocate for respondent No.5.

LISA GILL, J.

This appeal has been preferred by the United India Insurance Company Limited challenging quantum of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (for short, the 'Tribunal') vide award dated 05.03.2015.

Brief facts as stated in the petition under Section 166 of the Motor Vehicles Act, 1988 filed by the claimants are that, Bhawna (deceased) wife of Gobind Singh Rawat was averred to be a housemaid, earning Rs.5,000/- p.m. as salary alongwith accommodation in servant quarter. On 30.11.2013 at about 4:45 pm, Bhawna (since deceased) was coming from Sector 2, Chandigarh on her bicycle alongwith her brother-in-law towards her house. Deceased was 10-15 feet ahead of her brother-in-law. When they reached near turn of Sector 2, about 50 yards from the turn of Sector 10, a car bearing No.CH01-AD-7249 came from the

side of round about Sectors of 2/3/10 and 11, driven in a rash and negligent manner by respondent No.4, without blowing any horn. The car hit the bicycle of the deceased due to which she fell on the road alongwith her bicycle. The complainant alongwith driver of offending vehicle took the injured to Government Multi-Speciality Hospital, Sector 16, Chandigarh for treatment. She was referred to PGI, Chandigarh where she ultimately succumbed to injuries. Claim petition filed by the claimants was resisted by the Insurance Company as well as the driver of the offending vehicle by filing separate written statements.

From pleadings of the parties, the learned Tribunal framed the following issues on 15.10.2014:-

1. Whether deceased Bhawna died as a result of injuries suffered in a motor vehicular accident which was caused due to rash and negligent driving of car No.CH01-AD-7249 which was being driven by respondent No.1? OPP
2. Whether claimants are entitled to compensation on account of death of deceased Bhawna in a motor vehicular accident, if so to what extent and from whom? OPP
3. Whether respondent No.1 was not having a valid driving licence at the time of accident? OPR-3
4. Relief.

The learned Tribunal on consideration of the facts and circumstances concluded that the accident in question had occurred due to the rash and negligent driving of the offending vehicle by respondent No.4-Arun Hunjan. Accordingly, Issue No.1 was decided in favour of the claimants. This finding is not under challenge by the appellant.

A sum of ₹20,11,000/- was afforded to the claimants as compensation. Learned Tribunal held that the deceased was earning a salary of Rs.5,000/- p.m. and as a servant quarter was afforded to her, free of cost, a sum of Rs.3,000/- was added. Her income was thus assessed as Rs.8,000/- per month.

Deduction of $1/4^{\text{th}}$ was effected and multiplier of 17 was applied. Increase in income to the extent of 50% was afforded. Rs.1,00,000/- was afforded to the husband towards loss of consortium and Rs.25,000/- on account of funeral expenses, besides, Rs.50,000/- to children on account of loss of love and affection.

Learned counsel for the appellant vehemently argues that addition of Rs.3,000/- p.m. to the income of the deceased on account of servant quarter provided to her, is not justified. Her income should not have been assessed more than Rs.5,000/- p.m. in any case. Moreover deduction of $1/3^{\text{rd}}$ instead of $1/4^{\text{th}}$ should have been applied as the number of dependents are three in this case. Increment on account of future prospects should have been at the rate of 40% and not 50%. Moreover, learned Tribunal has erred in imposition of penal interest @ 12% per annum in the event of the Insurance Company not depositing the decretal amount within two months from the date of receipt of copy of the award. Compensation awarded to the claimants should, thus, be reduced. It is thus prayed that this appeal be allowed and compensation be reworked as above.

Learned counsel for the respondents No.1 to 3/claimants has refuted the abovesaid arguments. It is submitted that the impugned award is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

It is relevant to note at this juncture that no appeal or cross-objections have been filed by the claimants.

I have heard learned counsel for the parties and have gone through the file.

It is not in dispute that Bhawna died in a motor vehicle accident which took place on 30.11.2013 due to the rash and negligent driving of the

offending vehicle bearing registration No.CH01-AD-7249 by its driver respondent No.4. Liability of the Insurance Company is not disputed. No serious argument has been raised regarding the deceased-Bhawna getting a salary of Rs.5,000/- p.m. for doing household work. She was working as domestic help. Besides salary, she was given rent free accommodation in the shape of a quarter where she alongwith her family was residing. Learned Tribunal while observing that rent for such a quarter in the area concerned cannot be less than Rs.3,000/- p.m. has included this amount while assessing income of the deceased to be Rs.8,000/- p.m.

Taking into consideration the facts and circumstances of this case, I do not find any merit in the argument raised by learned counsel for the appellant-Insurance company to the effect that the said income as assessed by the learned Tribunal should be decreased to Rs.5,000/- p.m. This is so for the reason that even if it is accepted that the amount of Rs.3,000/- p.m. is not included as a part of income of the deceased, it cannot be disputed that apart from doing the work of domestic help, the deceased was looking after her own family consisting of her husband and two minor children. Even if the deceased was considered to be a housewife, her notional income for services rendered by her would not have been assessed to be less than Rs.8,000/- p.m. in respect to an accident which have taken place in November 2013.

Moreover, a Division Bench of this Court in **Paramjit Singh and another v. Dilbagh Singh @ Bagga and others**, 2014(4) RCR (Civil) 895 has held that deduction on account of personal expenses need not be made for calculating dependency in case of a housewife. Admittedly, the deceased was discharging her duty as a wife and mother as well. Though, it is correct that increment on account of future prospects should be 40% and not 50% in terms of

judgment of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680 and compensation under some of the conventional heads may need to be reduced, but it is to be noticed that any such deduction will necessarily be offset by the factors which are mentioned as above.

Keeping in view the facts and circumstances as above, there is no ground to interfere in the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh vide impugned award dated 05.03.2015.

No other argument has been raised.

However, it is noticed that interest @ 6% per annum has been awarded by the learned Tribunal in case the awarded amount is deposited within two months from the date of receipt of copy of the award. Recovery of the compensation beyond 50% of the awarded amount with interest was stayed in this appeal on 29.05.2015. It is directed that in case rest of the amount due towards the claimants is deposited within two months from the date of receipt of certified copy of this judgment, the appellant-Insurance company shall not be liable to pay interest at the rate of 12% as directed.

Appeal is accordingly dismissed with no order as to cost.

January 18, 2019.
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(LISA GILL)
JUDGE

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