

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

**FAO No.7523 of 2015 (O&M)
Date of decision: 17.07.2019**

Shriram General Insurance Company Limited

....Appellant

Versus

Sahab Ali and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Punit Jain, Advocate,
for the appellant-Shriram General Insurance Company.

Mr. Arpan Narula, Advocate,
for respondent No.2.

RITU BAHRI J. (Oral)

Shriram General Insurance Company Limited-appellant has filed this appeal against the award dated 25.02.2015 passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.4,83,800/- has been awarded in favour of the claimants-respondent Nos. 5 & 6 on account of death of Ashwani alias Sonu in a motor vehicular accident which took place on 24.03.2012. Respondent Nos. 5 & 6 are parents of deceased-Ashwani @ Sonu.

Brief facts of the case are that on 23.03.2012, Goldy alias Sunil Kumar along with Amar Singh, Sonu (since deceased) and Pardeep was going from Sirsa to Jalaur (Rajasthan) in a pick-up bearing registration No.

in a rash and negligent manner. When they reached near the bus-stand of village Purabsar, he (Sandeep) struck his pick-up against a stationary truck-trolla No.RJ-31-GA-5301, which was lying parked on the road without any indicator or signal. As a result of this accident, all the occupants of pick-up received injuries. Unfortunately, Goldy alias Sunil Kumar, Amar Singh and Sonu had died on the spot. Injured-Sandeep was shifted to a hospital at Hanumangarh. With regard to the accident, FIR No.44 dated 24.03.2012, under Sections 279/304-A IPC was registered at Police Station, Pallu, against Sandeep-driver. Consequently, claimants-respondent Nos.5 & 6 filed a claim petition under Section 163-A of the Act before the Tribunal.

On the basis of evidence led by the parties, Tribunal came to a conclusion that Goldy alias Sunil Kumar, Ashwani alias Sonu and Amar Singh suffered accidental injuries resulting into their death on account of use of pick-up bearing No. HR-57-3314 as well as truck-trolley bearing No.RJ-31-GA-5301. While assessing compensation, income of deceased was assessed as Rs.3300/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining amount came to Rs.26,400/- per annum (2200 x 12). As per postmortem report Ex.P15, he was 28 years of age at the time of death/accident. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants came to Rs.4,48,800/- (26,400 x 17). In addition to this, Rs.25,000/- were awarded as loss of love and affection etc. and Rs.10,000/- as funeral expenses and transportation. Hence, claimants-respondent Nos.5 and 6 were held entitled to a total compensation of Rs.4,83,800/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization.

Feeling dissatisfied with the award, Insurance Company-appellant has filed the present appeal.

Learned counsel for the Insurance Company has argued that the truck bearing registration No.RJ-31-GA-5301 was standing stationary and the driver of the pick-up (Sandeep), who was coming from behind, was negligent in causing the accident.

This argument is liable to be rejected as the Tribunal has observed that as per FIR Ex.P1, it was transpired that due to sudden nap of respondent-Sandeep while driving the pick-up, it struck against a stationary truck-trolla, which was lying parked without any parking lights on as well as against the traffic rules of Rajasthan State Highways Act, 2014. Hence, there was contributory negligent of both the drivers of the offending vehicles.

In view of the above, this appeal is liable to be dismissed on this account. However, with respect to the calculations of compensation under Section 163-A of the Act, the impugned award is liable to be modified. Accordingly, compensation is being re-assessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.3300/- per month
(ii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	3300 – 1100 = Rs.2200/-
(iii)	Compensation after multiplier of 17 is applied	Rs.2200/- x 12 x 17 = Rs.4,48,800/-
(iv)	Compensation under the conventional head (as per Schedule)	Rs.4500/-
(v)	TOTAL COMPENSATION AWARDED	Rs.4,53,300/-

The amount of compensation of **Rs.4,53,300/-** shall be payable within a period of two months from the date of receipt of certified copy of

this order. The amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization keeping in view the judgment passed by Hon'ble the Supreme Court in **Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & 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.

Accordingly, the award stands modified to the above extent and the present appeal is disposed of.

(RITU BAHRI)
JUDGE

17.07.2019
ajp

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