

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 9637 of 2014 (O&M)
Date of decision: 28.08.2019

Iffco Tokio General Insurance Co. Ltd.

...Appellant

V/s.

Mandeep Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

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

Ms. Amandeep Kaur, Advocate for
respondents No. 1 to 5.

None for respondents No. 6 and 7.

RITU BAHRI, J. (Oral).

The insurance company has come up in appeal against the award of the Tribunal dated 21.08.2014 whereby the compensation of Rs.27,67,000/- has been awarded to the claimants on account of death of Jagmeet Singh, who died in a road accident which took place on 19.04.2013.

Brief facts of the case are that on 19.04.2013, Jagmeet Singh was going on road leading from Chandigarh to his house while driving motorcycle at slow speed and on left side of the road. He was being followed by Bhupinder Singh on a separate motorcycle. When deceased had gone little ahead from the side of Verka Chowk and reached at Balongi Bridge at about 5:55 pm and at that time a tractor trolley bearing registration No. PB65-R-8970 came at fast speed from his behind and struck against his motorcycle. After causing the accident, the driver of the tractor trolley ran

away from the site of accident alongwith his tractor trolley. Aforesaid tractor trolley was being driven at fast speed and in a rash and negligent manner by Mandip Singh respondent No. 1. As a result of accident, the deceased fell down on the road and received serious injuries. He was taken to Civil Hospital, Phase VI, Mohali from where he was referred to Government Multi Specialty Hospital, Sector 16, Chandigarh where he died on the same day due to injuries suffered by him in the accident. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

The challenge to the award is only to the quantum. Learned counsel for the insurance company has argued that the deceased was employed with B&R through Contractor, Sector 17, Chandigarh and income of the deceased has been wrongly taken as Rs.12,000/- p.m. considering him to be Computer Operator as there was no evidence to show that he was having income of Rs.12,000/-p.m. Under the heads of loss of love and affection, funeral expenses and consortium, total Rs.1,75,000/- has been wrongly given. He further states that the father of the deceased was getting pension and he was not dependent upon him, hence 1/3rd cut should have been applied instead of 1/4th.

I have heard learned counsel for the appellant and perused the case file. As far as the first ground of the appeal is concerned, in para 10 of the award it was stated that the deceased Jagmeet Singh was having qualification certificates i.e. Punjabi type certificate Ex.P5, computer course from Community Polytechnic Wing Ex.P6, certificate from Syscom Computer Education Society Ex.P7, School certificate of Senior Secondary Examination Ex.P8 confirming the age of the deceased as 32 years. The

above said courses show that deceased was competent to earn Rs.12,000/- p.m. So, the income has been rightly taken. As per the award, Rs.1,75,000/- has been rightly awarded under the conventional heads as per the law prevalent in the year 2014. As far as 1/4th deduction is concerned, the father of the deceased was getting pension. He was 59 years of age at the time of death of his son. He may not be financially dependent upon him but being part of the family, he was staying alongwith the deceased, the cut of 1/4th has also been rightly applied and with respect to grant of 50% future prospect, no interference is called for. Even the Hon'ble Supreme Court in *Magma General Insurance Company Ltd. V/s. Nanu Ram Alias Chuhru Ram and others*, Civil Appeal No. 9581 of 2018, did not modify conventional head as per the law prevalent at that time.

Keeping in view the above, the appeal is dismissed. However recovery rights will be maintained.

Pending application, also stands dismissed.

(RITU BAHRI)
JUDGE

28.08.2019

Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No