IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 24.9.2019

1. **FAO No. 3009 of 2017(O&M)**

United India Insurance Co. Ltd. …..Appellant

VERSUS

Lal Singh and others .....Respondents

Present: Ms. Vandana Malhotra, Advocate for the appellant.

Mr. Ashok K. Sharma, Advocate for respondents No.1 to 6.

None for respondent No.7.

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2. **FAO No. 7613 of 2017(O&M)**

Lal Singh and others …..Appellant

VERSUS

Ram Singh and others .....Respondents

Present: Mr. Ashok K. Sharma, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for the insurance company.

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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REKHA MITTAL, J.(Oral)

This order will dispose of FAO Nos.3009 and 7613 of 2017 as these have emerged out of the same award dated 06.03.2017 passed by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') whereby compensation has been assessed on account of death of Ajaib Singh in a motor vehicular accident that took place on 09.05.2016.

FAO No.3009 of 2017 has been filed by United India Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') whereas the other appeal has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that appeal has been filed to assail findings of the Tribunal on the question of driving licence as well as quantum of compensation.

FAO Nos.3009 and 7613 of 2017

The Tribunal awarded Rs.13,59,000/- detailed hereunder:-

Monthly income of the deceased	Rs.9000/-
Deduction for personal expenses	1/4th
Multiplier	14
Loss of dependency	Rs.11,34,000/-
Loss of consortium	Rs.1,00,000/-
Expenses on funeral	Rs.25000/-
Loss of love and affection to claimants No.2, 4 to 6	Rs.1,00,000/-

Counsel for the claimants would argue that the Tribunal has not extended benefit of addition in income for future prospects and the same may be allowed.

Counsel representing the insurance company has submitted that compensation allowed under conventional heads may be restricted to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.** With regard to driving licence, it is argued that offending vehicle is registered as a transport vehicle and policy was issued for commercial vehicle but licence possessed by the driver did not contain endorsement authorizing him to drive a transport vehicle and as such he was not duly licensed to drive the vehicle in question. It is further argued that as the insured is guilty of breaching the terms and conditions of policy, the insurance company may be allowed right of recovery against the insured after payment of compensation to the claimants.

There is no representation on behalf of respondent No.7 earlier represented by a counsel.

The claimants shall be entitled to addition in income for future prospects at the rate of 25%. The other criteria adopted by the Tribunal for assessing loss of dependency is correct and affirmed. In this manner, loss of dependency comes to Rs.14,17,500/- [Rs.15,12,000/- (Rs.9000 x 12 x 14) + Rs.3,78,000/- (25% future prospects) – Rs.4,72,500/- (1/4th deduction towards personal expenses).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that the claimants shall be entitled to Rs.70,000/- detailed hereunder:-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.14,87,500/- and the additional amount is Rs.1,28,500/- (Rs.14,87,500/- - Rs.13,59,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization, to widow of the deceased, to be invested in fixed deposit for a period of three years.

The Tribunal has allowed payment of interest at the rate of 6% per annum in case the amount is not deposited within two months. The Tribunal has not recorded any finding to extend this concession to the insurance company and deny payment of compensation to the claimants. As such, claimants shall be entitle to interest on compensation assessed by the Tribunal irrespective of whether the amount was deposited within two months or otherwise. The interest shall be payable at the rate of 7.5.% per annum from the date of petition till realisation both on the amount of compensation assessed by the Tribunal as well as additional compensation assessed by this Court.

This brings the Court to question of driving licence possessed by Ram Singh, owner and driver of offending vehicle i.e. Bolero Pick-up bearing No.PB-11-BN-1821. Perusal of registration certificate would reveal that gross vehicle weight is 2450 kg and unladen weight is 1450kg. The vehicle falls within the purview of Light Motor Vehicle under Section 2(21) of the Motor Vehicles Act, 1988. As driver had licence to drive Light Motor Vehicle, contention raised by the insurance company that driver was not duly licensed is bereft of merit when examined in the light of judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited, 2017(7) Scale 731.**

No other point has been raised.

For the foregoing reasons, the appeals stand disposed of in the aforesaid terms.

SEPTEMBER 24, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no