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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO NO.3178 OF 2017(O&M)
Date of Decision: 14.10.2019

United India Insurance Company Ltd. ....Appellant

versus

Urmila Rani @ Urmila Sharma and others ....Respondents

CORAM HON'BLE MS. JUSTICE RITU BAHRI

Present Mr.Ram Avtar, Advocate for the appellant.
Mr Ashwani Arora, Advocate for respondents no.1 to 3.
Mr. Arun Kumar Batra, Advocate for respondent no.5.
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RITU BAHRI, J (ORAL)

The Insurance Company has come up in appeal against the award of the Tribunal in Claim Petition No.54 dated 18.09.2013/28.10.2014 dated 15.12.2016 whereupon compensation of ₹ 61,90,419/- has been awarded to the claimants – respondents no.1 to 3 on account of death of Subhash Chander @ Subhash Chander Sharma, who had died in a road accident which took place on 09.06.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.06.2013 at about 03:30 p.m deceased Subhash Chander @ Subhash Chander Sharma was coming from village Mohi Kalan to his house in Lalru while driving scooter at slow speed. He was being followed by Harpal Singh, who was on a separate motor cycle. After crossing village Dharamgarh when the deceased was about to take left turn towards Lalru, at that time a truck bearing No. RJ13-GA-7053 came at fast speed from the opposite direction i.e from the side of Lalru and while coming on the wrong side of the road driven by its driver in a rash and negligent manner, struck against the scooter of the deceased, due to which deceased fell down on the road and received serious injuries. He was shifted to Civil Hospital Banur from where he was referred to GMCH-32, Chandigarh and then taken to Fortis Hospital, Mohali where he succumbed to the injuries on 26.06.2013. Postmortem Report is Ex.P5, copy of FIR Ex.P9 and challan (Ex.P-13) was presented against respondent no.1.

Learned MACT awarded the compensation as under:-

Sr.No.	Heads	Calculations (₹)
1	Annual income	55466 x 12 = 6,65,592
2	15% future prospect	99,839/-
3	Total income of deceased	7,65,431/-
4	Personal and living expenses (1/3rd)	2,55,143/-
5	Income after deduction of personal and living expenses	5,10,288/-
6	Multiplier	11(eleven)
7	Loss of dependency	5,10,288 x 11 = 56,13,168/-
8	Consortium	1,00,000/-
9	Funeral expenses	25,000/-
10	Total Medical Bills	9,44,354/-
11	Medical Reimbursement already obtained by the claimants from Govt.	(-)4,92,103/-
12	Amount granted towards Medical bills	4,52,251/-
13	Total	61,90,419/-

The compensation *inter alia* is challenged on two grounds:

That the claimants no.2 and 3 were major son and daughter and they were not entitled to any compensation. This aspect has already been considered by the Hon'ble Supreme Court in case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram, 2018(4) RCR Civil 837*** wherein it has been held that for claiming compensation on account of death of a family member, as per Section 166(2) of the Motor Vehicles Act, 1988, only the legal representatives can claim compensation and that the legal representatives if they are major they will not be dis-entitled to claim compensation. So, in view of the settled proposition of law, this argument of the learned counsel for the appellant is rejected.

The second ground for challenging the award by Insurance Company was that the negligence was not duly proved as merely registration of FIR Ex.P9 and presentation of challan Ex.P13 would not be sufficient to return a finding on issue no.1 in favour of the claimants. The registration of FIR and presentation of challan are sufficient to return a finding in favour of the claimants as the MACT has assessed the compensation on the basis of evidence led before it and it has not returned a finding as held in criminal trial and this finding has been rightly given in favour of the claimants.

Counsel for the Insurance Company further argues that owner of the vehicle namely Anil Kumar – respondent no.5 did not have a permit to ply his vehicle in State of Punjab. He had a permit as per Ex.R15 to ply in Rajasthan. In paragraph 17 of the award, the Insurance Policy (Annexure R1) of the offending vehicle bearing registration no.RJ13-GA-7053, that was registered in the name of respondent no.2 and was insured with the Insurance Company for a period from 15.06.2012 to 14.06.2013 and the accident took place on 09.06.2013. The Driving Licence of the driver RW1 is Ex.R5 which was valid upto 18.11.2013 and hence a finding was given that Insurance Company was liable to make payment of compensation. Counsel for the Insurance Company contends that Ex.R15 was an information received under RTI. He further contends that offending vehicle was issued a permit by State of Rajasthan and this fact has not been disputed by respondents. He further contends that in State of Punjab he had paid road tax from 01.04.2013 to

30.06.2013 as per Annexure R15 and the accident took place on 09.06.2013 and hence on the date of the accident, the tax had duly been paid to the State of Punjab and there is no grievance to the State of Punjab from the fact that he had a permit to ply the vehicle in Rajasthan since the tax was paid in Punjab also, the respondent no.2 had a valid permit to ply the vehicle in both the States.

In view of the findings given above, no ground for setting aside / modification of the impugned award is made out and the present appeal is, therefore, dismissed.

14.10.2019 **(RITU BAHRI)**
mamta **JUDGE**

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