

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

F.A.O No. 5447 of 2017

Date of decision:- 04.10.2019

National Insurance Co. Ltd.

...Appellant

Versus

Ravi Yadav and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vikas Chatrath, Advocate
for the appellant

Mr. P.S. Chauhan, Advocate
for respondent No. 1 to 2

RITU BAHRI J. (Oral)

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Rewari (for brevity, the tribunal'), vide its award/order dated 20.04.2017 whereby the appellant-Company (for short 'the appellant') was held liable to make the payment of compensation to the tune of Rs.34,07,400/- on account of death of Jyoti Yadav in a motor vehicular accident on 19.10.2015 when she was going to Government Senior Secondary School at Husainka from her village Budhpur on scooter bearing registration no. HR-36T-4703, in the meanwhile, the offending vehicle came from Rewari side at a high speed and hit the scooty of the deceased. She died on the spot. F.I.R No. 136 dated 19.10.2015 under Sections 279/337/304-A IPC was registered in this regard against respondent No. 1 at P.S. Rohrai.

The learned Tribunal after going through the entire evidence, has granted the compensation as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.15600/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.15600+Rs.7800=Rs.23400/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.23400-Rs.7800=Rs.15600/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.15600X 12 X 17= Rs.31,82,400/-
(v)	Conventional heads	Rs.2,25,000/-
(vi)	Total compensation	Rs.34,07,400/-

Learned counsel for the appellant is disputing the factum of accident as F.I.R was registered at the behest of uncle of the deceased i.e Hawa Singh on 19.10.2015 itself against unknown driver of unknown vehicle. Further Hawa Singh was not the eye witness. The registration number of the offending truck in the supplementary statement of Nitesh Yadav and Satpal Yadav on 01.11.2015 after 12 days of accident has been mentioned as GJ-09-RM-3972 instead of GJ-09AV-3972. Both the witnesses corrected/improved the registration No. as GJ-09AV-3972 on 10.12.2015. Thus, learned counsel for the appellant contends that the offending vehicle in question i.e GJ-09AV-3972 was implanted later on in collusion with local police.

Learned counsel further argued that under the conventional heads, the learned Tribunal has awarded the amount on the higher side and the compensation should be awarded in view of judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017.***

Heard learned counsel for the parties at length.

With regard to first argument of learned counsel for the appellant, reference at the very outset can be made to copy of F.I.R (Ex P1)

where there is no description of the vehicle has been given by Hawa Singh, as he was not the alleged eye witness of the occurrence. Thereafter, statement of Nitesh Yadav and Satpal Yadav was recorded on 01.11.2015 after 12 days of accident in which they mentioned the registration No. of offending truck as GJ-09-RM-3972. But subsequently, in supplementary statement on 10.12.2015, they mentioned the registration No. of offending truck as GJ-09AV-3972.

This argument is liable to be rejected as the Insurance Company has not led any evidence to the effect that the alleged eye witness were interested witness or are relatives of the claimants. It was the duty of the Insurance Company to lead evidence. This minor correction in the number of the offending vehicle will not dent the deposition of the eye witnesses. Further after registration of the F.I.R, challan has been presented against the driver, who is facing trial.

Further the compensation has rightly been awarded by the Tribunal and is not liable to be modified in view of judgment of Hon'ble the Supreme Court of India in a case of *Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram, 2018 (4) RCR Civil 837*. Further this Court has discussed this issue in detail in the judgment titled as *Savitri and others vs. Mahabir and others, decided on 24.07.2019 in FAO NO. 4745-2014*.

In view of the discussion made above, the present appeal is dismissed being devoid of any merit.

04.10.2019

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No