

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3784 of 2018 (O&M)

Date of decision : 20.5.2019

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National Insurance Company Ltd., Chandigarh

.....Appellant

vs.

Ms. Gita Devi and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sandeep Suri, Advocate for the appellant.

None for respondents No. 5 and 6

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H. S. Madaan, J. (Oral)

On account of death of Ramprit Shah @ Ram Bharose, in a motor vehicular accident, which took place on 24.3.2017, at about 7 P.M. in the area of road from Tirupati Rice Mill to village Kurak, statedly on account of rash and negligent driving of motorcycle bearing registration No. HR-05-AG-1706 by respondent No.1 Isham Singh, legal representatives of deceased, namely, his wife Gita Devi, aged about 37 years, minor daughter Khushbu Kumari aged about 15 years, minor son Guddu Kumar aged about 13 years and minor daughter Khushi Kumari aged about 11 years, had brought a claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988, against respondents, i.e. Isham Singh – driver, Sanjay Kumar – owner

and National Insurance Company Limited, Karnal – insurer of the motorcycle bearing registration No. HR-05-AG-1706 (hereinafter to be referred to as 'the offending vehicle'), claiming compensation of Rs.80 lacs.

Notice of the claim petition was given to the respondents, who put in appearance. After contest, the claim petition was accepted by the Motor Accident Claims Tribunal, Karnal and vide award dated 16.2.2018, compensation of Rs.8,98,400/- was granted to the claimants with interest @ 6% per annum, from the date of filing of claim petition till actual realization alongwith cost of the petition. The manner in which the compensation amount is to be apportioned and other terms and conditions are duly mentioned in the award.

The Insurance company felt aggrieved by the award and has approached this Court by way of filing the present appeal, notice of which was given to the respondents.

Initially respondents No. 5 and 6 had appeared through counsel, but subsequently, they also absented from the Court.

I have heard learned counsel for the appellant - Insurance company, besides going through the record.

The Tribunal by taking age of the deceased to be 61 years, has taken his monthly income to be Rs.12,100/- per month as a labourer in terms of administrative order pertaining to wages for the year 2017-2018, issued by Deputy Commissioner, Karnal. The Tribunal had not believed the contentions of the claimants Ramprit Shah @ Ram Bharose, was employed as a Operator in Tirupati Rice

Mill, Kurak (Taraori), District Karnal, earning Rs.25,000/- per month on account of failure of claimants to examine the employer/authorized persons of said Rice Mill.

The grouse of the appellant-Insurance Company is that at the relevant time the minimum wages payable to a worker were Rs.8,281/- per month, as such the Tribunal should have taken up that amount to be monthly income of the deceased.

However, I am not impressed by this contention raised by learned counsel for the appellant. The Tribunal has taken into consideration the minimum wages payable to labourer in terms of administrative order for the year 2017-2018 i.e. 1.3.2017 to 28.2.2018 issued by Deputy Commissioner, Karnal and no fault can be found with the Tribunal in doing so. I do not see any reason to take the lessor amount as monthly earning of the deceased. The Tribunal had rightly deducted 1/4th of the amount towards personal expenses of the deceased, keeping in view the fact that number of dependents upon his earning happen to be 4, i.e. the claimants in this case. Considering his age to be 61 years, multiplier of 7 was rightly applied, working out the total dependency of claimants to be Rs.7,62,300/-. A sum of Rs.70,000/- has been awarded under the conventional heads and no fault can be found with the same.

Similarly no fault can be found with the Tribunal awarding Rs.66,012/- as treatment expenses of the deceased, thereby granting total compensation of Rs.8,98,312/- rounded off to Rs.8,98,400/-. The award passed by the Tribunal is well reasoned one based upon proper

appraisal and appreciation of evidence and correct interpretation of law. No illegality or infirmity is therein which might have called for interference by this Court while exercising the jurisdiction in appeal. The appeal is found to be without any merit and the same stands dismissed.

20.5.2019
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(H.S. Madaan)
Judge

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