

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

FAO No. 6767 of 2017 (O&M)

Date of decision : January 18, 2019

National Insurance Company Limited

.....Appellant

Versus

Banto Devi and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. V. Ramswaroop, Advocate for the appellant.

Mr. Mohit Garg, Advocate for respondent No. 1.

Mr. D.K. Sihag, Advocate for

Mr. Rajesh Duhan, Advocate for respondent No. 2.

LISA GILL, J.

Present appeal has been filed by National Insurance Company Limited challenging award dated 04.07.2017 passed by the learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal').

Brief facts necessary for adjudication of the case are that the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Salim Chand on 29.04.2016 in a motor vehicle accident caused due to driving of the offending vehicle, i.e. truck bearing registration No. HR-56Y-0069 by its driver Baljinder Singh - respondent No. 2 in a rash and negligent manner.

Two fold arguments have been raised by learned counsel for the appellant - insurance company. It is submitted that first and foremost is the claimants were not successful in proving that the accident in question was caused due to rash and negligent driving of the offending vehicle by its driver – Baljinder Singh (respondent No. 2 in this appeal). Moreover, multiplier of 18 has been wrongly applied by the learned Tribunal, keeping

in view the age of the deceased. It is submitted that multiplier should have been applied keeping in view the age of the claimant i.e. the mother of the deceased. It is, thus, prayed that the impugned award dated 04.07.2017 be set aside.

I have heard learned counsel for the parties and have perused the file with their able assistance.

It is clearly stated by CW1 Rinku Ram, an eyewitness of the accident that he alongwith Salim Chand were present at Narwana road, Dhabbi Gujran, Tehsil Patran, District Patiala on 29.04.2016 at 7.00 p.m. for selling scrap/waste material. Salim Chand had crossed the road towards petrol pump for obtaining small denomination of currency notes. While he was returning back and crossing the road the offending truck bearing registration No. HR-56Y-0069 came from Narwana side in a rash and negligent manner at a high speed struck against the deceased. It is a matter of record that FIR No. 65 dated 30.04.2016 under Sections 279, 337, 304A IPC was registered against the driver and criminal proceedings are still pending. Copy of the FIR is available as Ex.C1 on record. It is further noticed that respondent – driver did not step into the witness box to controvert the case of the claimant. It is a settled position that in the proceedings under the Act, the claimant is to prove his case on the preponderance of probabilities and not on reasonable doubt. There is indeed no evidence to indicate that the deceased himself was negligent in any manner while crossing the road. Therefore, there is no infirmity or perversity in the finding returned by the learned Tribunal on this issue and the same is, accordingly, upheld.

The question regarding multiplier to be applied while assessing

loss of dependancy i.e. whether it should be applied on the basis of the age of the claimant or the deceased is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has held that multiplier applied should be with reference to the age of the deceased and not of the parents. The deceased in this case was admittedly 20 years old and unmarried at the time of the accident. Multiplier of 18 has, thus, been correctly applied.

No other argument has been raised.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 04.07.2017 passed by the learned Motor Accident Claims Tribunal, Sangrur which calls for any interference by this Court.

The amount of compensation, recovery of which had been stayed, be released to the claimants within two months.

Accordingly, the appeal filed by the insurance company is hereby dismissed with no order as to costs.

January 18, 2019
rts

(Lisa Gill)
Judge

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