

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

FAO No.7938 of 2017 (O&M)

Date of decision: 23.09.2019

Reliance General Insurance Company Ltd.

....Appellant

Versus

Naresh Raju and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjeev Kodan, Advocate,
for the appellant.

Mr. Parminder Singh, Advocate,
for respondent Nos. 1 and 2.

Mr. Manoj Sharma, Advocate,
for respondent No.3.

RITU BAHRI J. (Oral)

Reliance General Insurance Company Ltd.-appellant has filed this appeal against the award dated 07.10.2017 passed by the Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.15,83,840/- has been awarded in favour of the claimants-respondent Nos. 1 & 2 on account of death of Gurdev Kaur in a motor vehicular accident which took place on 24.02.2014. claimant-respondent Nos.1 & 2 are sons of deceased-Gurdev Kaur.

Brief facts of the case are that on 24.02.2014, Gurdev Kaur (since deceased) along with her son Harwinder Singh-claimant No.2 was going from village Ransota to Dasuya on a scooter bearing registration No. PB-21-A-5673. Said motorcycle was being driven by Harwinder Singh on

of bridge at village Sagran, in the meantime, a Tata Ace bearing No.PB-07-AF-2326 being driven by Avtar Singh-respondent No.3 (respondent No.1 in claim petition) in a rash and negligent manner, came from the front side and struck against the scooter, as a result of which, Harwinder Singh and his mother Gurdev Kaur fell down and received multiple injuries. After the accident, driver of the offending vehicle ran away from the spot. Injured were got admitted in the Civil Hospital, Dasuya. However, Gurdev Kaur was declared brought dead. With regard to the accident, FIR No.17 dated 24.02.2014, under Sections 279/304-A/337/427 IPC was registered at Police Station, Dasuya. Consequently, claimants-respondent Nos.1 and 2 filed a claim petition under the Section 166 of the Motor Vehicle Act before the Tribunal.

On the basis of evidence led by the parties, Tribunal came to a conclusion that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver, which resulted into the death of Gurdev Kaur. This finding was right given on the basis of statement made by Harwinder Singh (AW-1), who was injured/eye witness of the accident and on whose statement FIR Ex.A1 was registered. Further, the claimants have proved on record copy of postmortem report of deceased Ex.A2, challan Ex.A3, copy of death certificate of Gurdev Kaur Ex.A4, pension payment order pertaining to the deceased Ex.A5 etc.

Deceased had retired from Northern Railway India and was drawing family pension of Rs.17,821/- per month as per account statement Ex.AW2/B. The Tribunal has taken monthly income of deceased as Rs.17,800/-. In this income, addition of 15% was made on account of future prospects. By doing so, income of deceased came to Rs.20,470/- (17800 +

2670) i.e. Rs.2,45,640/- per annum. Out of this income, one-third amount was deducted towards personal expenses of the deceased. Remaining amount came to Rs.1,63,760/- per annum. The deceased was 59 years of age at the time of death/accident. Accordingly, multiplier of 09 was applied. After applying the multiplier of 09, dependency of claimant came to Rs.14,73,840/- (1,63,760 x 9). In addition to this, an amount of Rs.10,000/- was awarded towards funeral expenses and Rs.1,00,000/- as loss of love and affection. Hence, the claimants were found entitled to a total compensation of Rs.15,83,840/- along with interest at the rate of 6% per annum from the date of filing of petition till realization. Feeling dissatisfied with the impugned award, appellant-Insurance Company has filed the present appeal.

The Insurance Company is challenging the impugned award on the ground that claimants being sons of deceased-Gurdev Kaur were not dependent upon her, therefore, they were not entitled to receive the compensation.

Heard, learned counsel for the parties.

Reference, at this stage, can be made to a judgment passed by Co-ordinate Bench of this Court in **Jagdish Lal and others vs. Ram Chander and others**, FAO-3356 of 2004 (decided on 11.07.2019), wherein reliance has been placed on a decision given by Hon'ble the Supreme Court in **Gujrat State Road Transport Corporation, Ahmedabad vs. Ramanbhai Prabhatbhai and another**, 1987 AIR (SC) 1690, in which it has been held that legal representatives of deceased can maintain an application for compensation under Section 166 of the Motor Vehicle Act. Section 110-A sub clause (1) provided that application for compensation can be made by legal representatives of the deceased or their agent.

In the facts of the present case, claimants are sons of the deceased. Therefore, as per the ratio of the aforesaid judgments, they can file a petition under Section 166 of the Motor Vehicle act seeking compensation on account of the death of their mother in a vehicular accident.

A perusal of the impugned award shows that finding on issue No.1 has been rightly given in favour of the claimants to the effect that the accident in question had taken place on account of rash and negligent driving of the offending vehicle by its driver. After going through the impugned award, this Court is of the view that the compensation has been rightly awarded in favour of the claimants (respondent Nos. 1 & 2) as per the law prevalent at that time and no ground is made out to interfere therein. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

23.09.2019
ajp

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