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

226/2

****

1. FAO No. 6144 of 2016 (O & M)
Decided on: 23.7.2019

Oriental Insurance Company Limited ....Appellant

v.

Gurjit Kaur @ Gurjeet Kaur and others .....Respondents

2. FAO No. 7063 of 2016

Gurjit Kaur @ Gurjeet Kaur and others ....Appellants

v.

Rajwinder Singh and others .....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Talwar, Advocate, for the appellant-Insurance Co.

Mr. Ashwani Arora, Advocate, for the respondents
(for the appellants in FAO No.7063 of 2016)

Ritu Bahri, J.(Oral)

FAO No. 6144 of 2016 (O & M) :

The Insurance company has come up in appeal against the order of the Tribunal dated 8.7.2016 on the short ground that the Insurance company should have absolved in making the payment and thereafter making the recovery from the driver and owner as the driver did not have the valid driving licence. The said aspect has already been considered by the Hon'ble Supreme Court in **SLP No. 29032 of 2015** titled as **Pappu and others v. Vinod Kumar Lamba**, wherein it has been held that initially the Insurance company should make the payment and thereafter, recovered the amount from the insured so that the insured could not run.

This appeal on this short ground is liable to be dismissed.

Ordered accordingly.

FAO No. 7063 of 2016 :

This appeal has been preferred by the claimants seeking modification of the award dated 8.7.2019 as the deceased was 50 years of age and his income has been taken as Rs.19,865/-(rounded of), which includes the pension of Rs.11,894/- and salary of Rs.7,971/-, as per his salary certificate (Annexure P-12) and account statement (Annexure P-13). From his total income 1/3rd has been deducted for personal expenses (19,865-6622=13,243/-). The annual dependency comes to Rs.=20,65,908/- (13,243 x 12 x 13). To this calculation benefit of future prospects has not been added.

I am of the view that income of the deceased was rightly taken to Rs.19865/-per month as per the documents. Since the deceased was a pensioner, therefore, 15% was added towards his future prospects i.e. Rs.2980/-. Total income of the deceased comes to Rs. 22,844/-. After 1/3rd deduction (22,844 -7,615= 15229), and applying multiplier of 13, the annual dependency comes to Rs. 23,75,724/- (15,229 x 12 x 13). Rs.15,000/- are allowed for loss of estate, Rs.15,000/-for funeral expenses and Rs.40,000/-are allowed to claimant No.1 and 2 for loss of love and affection in view of the judgment of the Apex Court in **'Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram and others, 2018 (4) RCR (Civil) 333'.** Thus, total compensation comes to Rs. 24,85,724/-(23,75,724+1,10,000).

The award is modified accordingly. The enhanced compensation shall be paid along with interest @ 7.25% per annum from the date of filing of the claim petition till its realization.

This appeal is accordingly disposed of.

(RITU BAHRI)
JUDGE

23.7.2019
Ashwani

Speaking/Reasoned : Yes/No
Reportable : Yes/No