

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

FAO-5312-2017(O&M)

Date of decision:-3.7.2019

Iffco Tokio General Insurance Company Ltd.

...Appellant

Versus

Jaspinder Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ravinder Arora, Advocate and
Mr.Neeraj Khanna, Advocate
for the appellant.

Ms.Harmeet Kaur, Advocate for
Mr.Chandan Deep Singh, Advocate
for respondents No.1 to 4.

Mr.Rahul Sharma, Advocate
for respondent No.5.

H.S. MADAAN, J.

On account of death of one Manjinder Singh in a motor vehicular accident, which took place on 7.6.2015 at about 7:15 a.m. in the area of Pakhowal Main Chowk, Nangal statedly on account of rash and negligent driving of motorcycle bearing registration No.PB-10DG-1627 (hereinafter referred to as the offending vehicle) by respondent No.1 – Amandeep Singh, his legal representatives namely Jaspinder Kaur – wife, Navjot Kaur – daughter, Harjinder Kaur – mother and Nachhattar Singh - father, had brought a claim petition under Section 166 of the Motor Vehicles Act, claiming compensation to the tune of Rs.50 lacs. In the said

claim petition, they impleaded Amandeep Singh – driver-cum-owner and Iffco Tokia General Insurance Co. Ltd. – insurer of the offending vehicle as respondents.

On notice both the respondents appeared and offered a contest. Issues on merits were framed. The parties were afforded opportunities to lead evidence.

Vide Award dated 24.10.2016, learned Motor Accidents Claims Tribunal, Ludhiana allowed the claim petition with costs and awarded compensation of Rs.15,43,941/- along with interest @ 6% per annum from the date of filing of petition till its realization to the claimants, payable by both the respondents jointly and severally. The manner in which the compensation is to be apportioned was also given in the award.

The respondent No.2 – insurance company felt aggrieved by the said Award and has approached this Court by way of filing an appeal praying that the same be allowed and award be set aside qua the appellant.

Notice of the appeal was issued to the respondents, who appeared through counsel.

I have heard learned counsel for the parties besides going through the record and I do not find any merit in the appeal.

The Tribunal had considered the date of birth entered in Aadhar Card Ex.C76 of deceased as 19.9.1964 observing that on the date of accident i.e. on 7.6.2015, he was aged between 50 to 51 years and following the guidelines in **Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR(Civil)77**, had applied

multiplier of 13. No amount was however given towards future prospects observing that since deceased was aged more than 50 years at the time of his death, future prospects could not be granted. However, these observations of the Tribunal are not correct since in judgment *National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009*, it has been observed that if the deceased was between the age of 50-60 years, an addition of 15% is to be made. But the claimants have neither filed any appeal for enhancement of compensation nor filed any cross-objections, which goes to show that they were satisfied with the compensation amount awarded to them. Therefore, no compensation in that respect is being granted to them. The Tribunal has deducted 1/4th of the amount towards personal expenses of the deceased, which keeping in view the fact that number of dependents upon him happened to be four was quite justified. The Tribunal has awarded a sum of Rs.2,48,941/- to the claimants as amount spent on medical treatment of the deceased before he succumbed to the injuries suffered in the motor vehicular accident. The Tribunal has awarded a sum of Rs.1,00,000/- to claimant No.1 – Smt.Jaspinder Kaur towards loss of consortium and Rs.25,000/- as funeral expenses but no amount was awarded towards loss of estate. No interference therewith is called for.

As regards the quantum part, the compensation awarded does not come out to be on higher side, rather it is just and adequate. The Tribunal considering the evidence brought on file by the parties in light of their pleadings has come to the conclusion that respondent No.1 was author of the accident by his rash and negligent driving of the offending

motorcycle resulting in causing injuries to Manjinder Singh, to which he had succumbed later on.

I do not find any illegality of infirmity in the award passed by the Tribunal. Rather the same is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein.

Thus, the appeal stands dismissed.

3.7.2019

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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No