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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-7060-2019 (O&M)

Date of Decision: December 19, 2019

Shri Ram General Insurance Company Limited

.....Appellant

Versus

Smt.Suman Lata and others

.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Sachin Ohri, Advocate
for the appellant.

.....

NIRMALJIT KAUR, J. (ORAL)

The present appeal is filed against the Award dated 04.09.2019 passed by the Motor Accident Claims Tribunal, Panipat.

Learned counsel for the appellant-Insurance Company while praying for setting aside the said Award raised two-fold arguments. Firstly, on the question of negligence, it is stated that the deceased hit into the truck, which was already lying turtle. Therefore, the fault, if any, is of the deceased who may have been driving at a fast speed and did not notice the truck which was already lying turtle. Secondly, quantum is on the higher side as it is the case of the respondents that the deceased was earning ₹12,000/- per month but ₹35,000/- has been assessed as the income without any basis and without any evidence.

Heard.

The first argument has no merit. The truck, no doubt, was lying turtle but the entire sand was still lying on the road. The same had not been cleared. The motor-cycle hit into the sand, which was lying in a heap on the

middle of the road. No reflector or any other precaution was taken to cut off that area. It is a known fact how trucks and other vehicles are plying on the road side after heavily loaded. Normally, the reason for the vehicle to turn turtle is due to overloading. In this case, the truck was carrying sand. The incident was in the middle of the night at 2.30 a.m. In these circumstances, to allege that the deceased who was coming on the motor-cycle was negligent is on a presumption which is totally unfair and incorrect.

The second argument too has no merit. Admittedly, the deceased was a doctor in PGI. No doubt at that point of time he was only getting ₹12,000/- as an intern but the Tribunal while assessing the income as ₹35,000/- has relied on the judgment rendered by this Court in the case of **B.D.Gupta vs Smt.R.Rani Manoranjitham** 2001(2) RCR Civil 527 as also taking into account that prospects of a doctor in PGI were bright. It is also the case of the claimants that the deceased was a brilliant student and was a topper. The deceased was only 24 years of age. Therefore, the income assessed as ₹35,000/- cannot be faulted with.

Accordingly, no ground to interfere in the Award passed by the Tribunal is made out. Dismissed.

However, ₹25,000/- deposited with the Registry be remitted back to the Tribunal for disbursement.

December 19, 2019
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(**NIRMALJIT KAUR**)
JUDGE

1. **Whether speaking/reasoned ?**
2. **Whether reportable ?**

Yes/No
Yes/No