

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

FAO-880-2020 (O&M)
Date of decision : 03.03.2020

The Oriental Insurance Company Limited

...Appellant

Versus

Anoop Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.C. Gupta, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The Insurance Company has filed the present appeal against the award passed by the learned Motor Accident Claims Tribunal, Jhajjar, granting a total compensation of ₹23,14,800/- on account of the death of Poonam Kumari, aged 27 years. Basically, she was a homemaker. She was also doing some sort of agricultural and dairy work. She left behind two minor children and a husband. As per the case of the claimants, she was travelling in a motor vehicle which met with an accident. The driver of the motor vehicle, in which deceased was travelling, suddenly applied breaks to take a right turn on a busy highway when a truck coming from behind struck the vehicle causing it to turn turtle. She lost her life due to injuries suffered in that accident.

In order to prove the rash and negligent driving, Bala, another

occupant of the ill fated vehicle was examined as PW1. It was also proved that the FIR against respondent No.1, driver of the vehicle, has been registered and he is on bail.

Learned Motor Accident Claims Tribunal held that the driver of the vehicle, in which deceased was travelling, was driving the vehicle in a rash and negligent manner and thus, proceeded to assess the compensation.

This Court has heard learned counsel for the appellant and with his able assistance gone through the judgment passed by the learned Tribunal. Learned counsel for the appellant has submitted that the truck came from behind and, therefore, driver of the truck should have been made contributory negligent. The learned Tribunal has also erred in assessing the contribution of a home-maker at ₹12,000/- per month and, thereafter, added 40% towards future prospects. Services of late Smt. Poonam Kumari in monetary terms could not be assessed at an amount more than what an unskilled labourer normally earns.

This Court has considered the submission.

On critical analysis thereof, this Court is of the considered view that there is no substance in the present appeal. It is undisputed that the ill fated vehicle, driven by respondent No.4 was cruising on a highway. He wanted to take a right turn to go to other side. The road was a single carriageway (having vehicles travelling on both the directions). In such circumstances, it was the duty of respondent No.4 to be vigilant before deciding to take a turn particularly towards right side. In such

circumstances, driver of the truck, which was coming from behind, cannot be said to have committed any fault. It has come in evidence that respondent No.4 suddenly applied breaks and started taking right turn when it was pitch dark. Respondent No.4, before starting to take a turn, was required to be vigilant about the vehicles coming from behind as well as from the opposite directions. Still further, the Police also on completion of the investigation, did not find that the driver of the truck has committed any offence. In fact, no FIR has got registered against driver of the truck. The driver of the truck is also not a party-respondent in these proceedings.

In view thereof, there is no material on the file to record a finding that driver of the truck was also contributory negligent.

As regards argument of learned counsel for the appellant that the contribution of late Smt. Poonam Kumari (deceased) towards management of the house in monetary terms has been wrongly assessed, it may be noticed that she was a home-maker having two children apart from a husband. She was resident of Village Niwada, District Jhajjar. Females of this area are very laborious. They not only manage the house but also participate in looking after work relating to agricultural land as well as rearing of milk yielding animals. Hence, learned Tribunal did commit any error while assessing contribution of the deceased towards family at ₹12,000/- per month particularly when the accident took place in October, 2013.

The next argument of learned counsel for the appellant is that

the learned Tribunal has erred in adding monetary value of 40% of the income towards future prospects. The contribution of a housewife in the upkeep of the house is bound to increase with the passage of time and inflation. In such circumstances, her contribution towards rearing children and managing the house cannot be undermined. It cannot be treated to be static.

Keeping in view the aforesaid facts, there is no ground to interfere.

Appeal stands disposed of accordingly.

All the pending miscellaneous applications, if any, are disposed of in view of the abovesaid judgment passed.

03.03.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No