IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2889 of 2019(O&M)

Date of decision: 15.1.2020

IFFCO Tokio General Insurance Company Ltd. …..Appellant

VERSUS

Kuldeep Kaur and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vishal Aggarwal, Advocate for the appellant.

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REKHA MITTAL, J.(Oral)

CM No.9954-CII of 2019

Prayer in this application is for condoning delay of 31 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Rajiv Ranjan, IFFCO Complex, the application is allowed. Delay of 31 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.2889 of 2019

Challenge in the present appeal has been directed against award dated 21.12.2018 passed by the Motor Accidents Claims Tribunal, Rupnagar (in short 'the Tribunal') whereby compensation has been assessed on account of death of Bhupinder Singh in a motor vehicular accident that took place on 31.08.2016.

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Counsel for the insurance company would inform that appeal has been filed to assail findings of the Tribunal on issue No.1 and quantum of compensation.

It is argued that with regard to the occurrence, complaint was registered under Section 302 IPC but later the case was converted into Section 279 and 304-A IPC. It is further argued that Manjit Singh PW-3, an alleged eye-witness to the occurrence was not examined in the criminal proceedings, therefore, his testimony cannot be relied upon on the face of it.

With regard to compensation, it is argued that the Tribunal has rejected plea of the claimants that deceased was working as driver on harvesting machine thereby earning Rs.15,000/- per month but still assessed his income at Rs.9000/- per month as against minimum wage of approximately Rs.7200/- per month. However, he has fairly informed that Tribunal has not allowed addition in income for future prospects.

Bhupinder Singh sustained injuries on 31.08.2016 but died on 03.09.2016. FIR was registered on 24.12.2016 under Section 279, 304-A IPC on the statement of Manjit Singh son of Teja Singh and Dharminder Singh son of Puran Singh, driver and cleaner of truck trolla No.PB-11-BL-8989.

Counsel for the appellant, in response to a query, would inform that initially complaint was made for registration of FIR by raising allegations qua murder of the deceased but on investigation, FIR was registered under Sections 279, 304-A IPC. Counsel for the appellant has failed to point out any facts elicited in cross examination of Manjit Singh to discard or disbelieve his testimony or impeach evidentiary value of his

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statement. The driver of offending vehicle did not appear in the witness box to counter case of the claimants. This apart, on due investigation of the FIR, challan was presented in the Court and documents in this regard have been marked as exhibits, noticed in para 6 of the award. In the given circumstances, I do not find an error in findings of the Tribunal upholding plea of the claimants that accident is the result of rash and negligent driving of offending vehicle by its driver namely Amrik Singh.

Coming to the compensation assessed, the plea of the claimants is that deceased was working as driver on harvesting machine thereby earning Rs.15,000/- per month. They examined Kamaljit Singh PW-2 to substantiate their plea in this regard. Driving licence, if any, possessed by Bhupinder Singh has not been produced on record and it falsifies plea of the claimants that deceased was working as driver on a harvesting machine. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.7500/- per month. Claimants shall be entitle to addition in income for future prospects at the rate of 40%. As the deceased was 24 years old, admissible multiplier is 18. Deduction for personal expenses allowed is affirmed. Accordingly, loss of dependency is calculated at Rs.11,34,000/- [Rs.16,20,000/- (Rs.7500 x 12 x 18) + Rs.6,48,000/- (40% addition towards future prospects) – Rs.11,34,000/- (50% deduction towards personal expenses)].

Compensation allowed under conventional heads is affirmed.

In view of the above, total compensation is Rs.11,64,000/- and additional amount Rs.3,24,000/- (Rs.11,64,000/- - Rs.8,40,000/-)

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payable with interest at the rate of 7.5% per annum from the date of petition till realisation.

In view of what has been discussed hereinbefore, the appeal stands disposed of in the aforesaid terms.

Before parting with this order, it is pertinent to mention that monthly income of deceased assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an appropriate application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of appeal filed by the insurance company would not cause prejudice to their right. A copy of judgment be sent to the claimants for realization of additional amount.

JANUARY 15, 2020 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no

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