IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3029 of 2020 (O&M)
Date of decision: 21.12.2020

Reliance General Insurance Company Ltd.

….Appellant

Versus

Champa Devi and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Paras Money Goyal, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

Reliance General Insurance Company Limited-appellant has come up in appeal against the award dated 29.01.2020 passed by the Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.79,32,925/- has been awarded in favour of claimants-respondent Nos. 1 to 4 on account of death of Ameelal Yadav in a motor vehicular accident which took place on 13.10.2017. Respondent No. 1 is mother, respondent No.2 is wife and respondent Nos.3 & 4 are children of deceased Ameelal Yadav.

Brief facts of the case are that on 13.10.2017 at about 6.30 PM, deceased Ameelal Yadav was going towards village Mau from Kautputli on a motorcycle bearing No. RJ-02-KS-0088. When he reached near Ved Prakash's tubewell, one tractor bearing No. RJ-02-RB-9154 being driven by Hawa Singh-respondent No.5 (respondent No.1 in claim petition) in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Ameelal Yadav, as a result of which, he (Ameelal Yadav) received injuries. Injured was taken to Kailash Hospital, Behror, where he was declared brought dead. A criminal case was registered against the driver of offending truck for causing the accident. Consequently, the claimants (respondent Nos. 1 to 4 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident in question had taken place due to rash and negligent driving of the offending vehicle by its Hawa Singh driver-respondent No.1 (respondent No.5 herein) and thus, returned the finding on issue No.1 in favour of the claimants-respondent Nos. 1 to 4. This finding is rightly based on the deposition of Girraj Prasad (PW-3), who was an eye witness of the accident. Income of the deceased was assessed at Rs.4,40,500/- per annum. In this income, 40% has been added on account of future prospects, which came to be Rs.6,16,700/- per annum. Out of this, 1/4th has been deducted towards personal expenses of the deceased. Accordingly, total dependency came to Rs.4,62,525/- per annum. After applying the multiplier of 17, loss of dependency came to be Rs.78,62,925/-. Apart from this, Rs.15,000/- were awarded on account of funeral expenses, Rs.15,000/- towards loss of estate and Rs.40,000/- on account of loss of consortium in favour of claimant-wife. Ultimately, the claim petition was accepted and a sum of Rs.79,32,925/- was awarded as compensation in favour of the claimants. Feeling dissatisfied with the impugned award, the appellant-Insurance Company has preferred the present appeal.

Learned counsel for the appellant-insurance company has argued that no evidence with regard to the business of the deceased has been led by the claimants. Therefore, income of the deceased has been wrongly assessed by the Tribunal.

I have heard learned counsel for the appellant and perused the case file.

Anita Yadav, wife of deceased Ameelal Yadav, appeared as PW-1 and stated that her husband was self employed and was having diesel engine repairing shop. He had done ITI in the Mechanic (Diesel) trade. Copy of ITI certificate has been proved on record as Ex.P3. PW-1 further stated that her husband was doing very well in his business. Further, the claimants have examined Siya Ram, Senior Tax Assistance, Income Tax Office, Rewari as PW-2, who proved on record order/intimation dated 28.03.2019 under Section 143 (1) of Income Tax Act, 1961 in respect of Ameelal Yadav as Ex.P11. He also identified the signatures of Rajesh Kumar Katariya, Income Tax Officer, Ward No.1, Rewari. As per intimation of income tax Ex.P11, gross income of the deceased was Rs.4,40,500/- per annum. The above evidence was sufficient to prove that the deceased was self employed and was capable of earning Rs.4,40,500/-. Accordingly, the income of deceased has rightly been assessed by the Tribunal.

In view of the above discussion, this Court is of the view that the Tribunal has rightly recorded finding on issue No.1 against the driver of offending vehicle Because of his rash and negligent driving, the accident had occurred and Ameelal Yadav received injuries, which resulted into his death.

After going through the impugned Award, no illegality, much less perversity has been found therein warranting interference by this Court.

The Tribunal has assessed the compensation after appreciating evidence in the right perspective.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

21.12.2020
ajp

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No