

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

FAO-2870-2020 (O&M)
Date of Decision:- 17.9.2020

Royal Sundaram General Insurance Co. Ltd. ... Appellant

Versus

Savita and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. D.K.Prajapati, Advocate, for the appellant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The Royal Sundaram General Insurance Co. Ltd (insurer) assails award dated 17.3.2020 passed by Motor Accident Claims Tribunal, Sonipat, whereby claim petition filed by respondents No.1 to 4 seeking compensation on account of death of Arvind Kumar i.e. husband of respondent No.1 and father of respondents No.2 to 4, has been accepted and compensation to the tune of ₹82,24,900/- has been awarded.
2. Learned counsel for the appellant while assailing the impugned judgment has submitted that the trial Court fell in error in reaching at

the findings as regards negligence of offending vehicle whereas in fact it is a case where the offending vehicle was found to have borne a minor scratch only which would show that a false case has been set up by the claimants.

3. I have considered aforesaid submission. It is a case where the offending vehicle suddenly came from the opposite side of the vehicle driven by the deceased and struck against the vehicle of deceased on the left side and on account of which the deceased lost control and dashed his car into the divider as a result of which he sustained multiple grievous injuries and succumbed to his injuries. The testimony of the eye witness Umesh PW-2 who was sitting in the car alongside deceased could not be shattered despite his cross-examination. The respondents have not led any evidence to rebut the testimony of the aforesaid eye witness. In these circumstances this Court does not find any ground to interfere with the findings as regards the negligence of the offending vehicle.
4. Learned counsel for the appellant has next submitted that the trial Court fell in error in including the conveyance allowance and ration allowance drawn by the deceased in his income. However, the aforesaid matter has been well settled by Hon'ble Supreme Court in *National Insurance Company Ltd. Vs. Indira Srivastave and ors.* 2008(2) SCC 763 wherein it has been held perks and allowances should be included for computation of monthly income. A similar contention regarding exclusion of conveyance allowance and ration

allowance from salary was turned down by this Court in 2019(3) PLR 671, *Monika Vs. Rajender Kumar*.

5. The aforesaid contention raised on behalf of the appellant cannot thus, be accepted. The deceased was serving in Delhi Police and drawing gross salary of ₹59,000/- per month. The said factum could not be disputed by the respondents. Keeping in view the aforesaid salary, the dependency as assessed by the learned Tribunal which has been assessed after deducting the amount which must have been deducted towards income tax cannot be called to a question. There is no infirmity either in the dependency or in the multiplier as has been applied by the Tribunal. Consequently, this Court does not find any infirmity in impugned award. There is no merit in the appeal and the same is hereby dismissed.

September 17, 2020

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No