IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC No.206 of 2019 (O&M) in/and
FAO-5351-2019 (O&M)
Date of decision : 12.03.2020

United India Insurance Company Limited

...Appellant

Versus

Raj Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lalit Garg, Advocate for the appellant.

Mr. Rajat Garg, Advocate
for Cross-Objectors/respondent Nos.1 to 3.

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ANIL KSHETARPAL, J. (ORAL)

By this judgment, appeal as well as cross objections shall stand disposed of. The appeal has been filed by the Insurance Company.

Learned counsel for the appellant has submitted that the claimants have failed to prove rash and negligent driving as also the involvement of offending vehicle i.e. HR-01-AF-0771 as father of the deceased Nirmal Singh had registered FIR on 10.12.2017 i.e. the next day from the accident but did not disclose the registration number of the vehicle. He further submitted that the driving licence of Sanjeev Kumar, driver of the offending vehicle, has not been proved.

This Court has considered the submissions. It is not disputed that widow of the deceased Raj Rani as also another independent witness Gurwinder Singh, have been examined to prove rash and negligent driving by Sanjeev Kumar, as also involvement of the offending vehicle. In the cross-examination, the evidence of both these eye-witnesses could not be impeached. Still further, Sanjeev Kumar, driver of the offending vehicle has not appeared in evidence to rebut the evidence led by the claimants. The Insurance Company has also not produced any evidence to prove false implication of the offending insured vehicle. Still further, the deceased was resident of Ludhiana whereas the driver and owner of the offending vehicle are residents of Ambala which is nearly 100 km away. Further, the police on investigation has found that the offending vehicle driven by Sanjeev Kumar was involved in the accident.

Next argument of learned counsel for the Insurance Company is with respect to the genuineness of the driving licence. It is undisputed that two driving licences were produced. The Insurance Company examined an official from the District Transport Officer, Jagadhri as RW2 who has made a statement that first driving licence is not issued in the name of Sanjeev Kumar. However, the aforesaid witness has admitted that second driving licence is issued in the name of Sanjeev Kumar and the same is valid and genuine driving licences.

In the cross-objections, the claimants pray for enhancement. Learned counsel for the Cross-Objectors has submitted that while awarding amount for loss of love and affection, only ₹15,000/- has been awarded which ought to be ₹40,000/- as per the judgment passed by the Constitution

Bench in **National *Insurance Company Ltd. Vs. Pranay Sethi and others, 2017(10) SC 450***.

Learned counsel for the Insurance Company does not seriously contest this position.

Keeping in view the aforesaid discussion, appeal filed by the Insurance Company is dismissed whereas Cross-Objections are allowed and the amount awarded by the Motor Accident Claims Tribunal under the head of loss of love and affection shall stand revised to ₹40,000/- from ₹15,000/-.

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

12.03.2020 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No