

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

1. FAO No.1007 of 2014 (O&M)

The Oriental Insurance Co. Ltd.

... Appellant

Versus

Vipanjit Kaur & others

... Respondents

2. FAO No.1008 of 2014 (O&M)

The Oriental Insurance Co. Ltd.

... Appellant

Versus

Vipanjit Kaur & others

... Respondents

Date of decision: 10th February, 2020

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Raj K. Bashamboo, Advocate for the appellant.

 Mr. Nitesh Singhi, Advocate for respondents No.1 and 2.

 Mr. Hardeep Singh, Advocate for respondent No.3.

FATEH DEEP SINGH, J.

Both these appeals are an outcome of a common award dated 23.09.2013 passed by learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as, 'the Tribunal') and thus, on account of same very legal and factual intricacies, are being taken up together for disposal by way of this common judgment.

Heard Mr. Raj Kumar Bashamboo, Advocate for the appellant; Mr. Nitesh Singhi, Advocate on behalf of respondents No.1 and 2; Mr. Hardeep Singh, Advocate representing respondent No.3 and perused the records of the case.

The facts in brief which are necessitated and are well evident from the records, are that one Gurdev Singh along with his wife Surinder Kaur (since both deceased) who happen to be the parents of unfortunate claimants Vipanjit Kaur and Sarabjit Singh (wrongly denoted as Sarabjit Kaur) being daughter and son respectively, were going on 25.02.2011 on their scooter bearing registration No.PB-27-A-1054 (in short, 'the ill-fated scooter') from the side of village Todar Majra towards village Sampla and which was being driven by deceased Gurdev Singh. It was in the area of village Behla Khanpur around 8:15 a.m. a car make Indica bearing registration No.PB-23-F-8185 (in short, 'the offending car') came from the side of Fatehgarh Sahib being driven rashly and negligently at a high speed by Narinder Singh respondent No.3 and hit against the ill-fated scooter and dragged them for some distance, as a consequence of which the couple died instantaneously, regarding which FIR No.26 dated 25.02.2011 was registered under Sections 279 and 304-A IPC at Police Station Bassi Pathana. Admittedly Gurdev Singh deceased was aged around 75 years and had retired from Punjab School

Education Board. The claimants claim that he was running a dairy-farm besides owning 4 acres of land and thus, was earning ₹ 60,000/- per month on which the claimants were dependent and thus sought compensation from the driver and owner of the offending car as well as the insurer. In the stand of respondent No.3, owner and driver of the offending car, he denied the accident and thus his fault as claimed by the claimants. The insurer in their reply besides taking usual preliminary objections of the driver not holding a legal, valid and effective driving license, took the plea that the owner of the ill-fated scooter and its insurer were not made party, though accepted the fact that the offending car was under insurance cover at the time of accident.

The only and the sole rallying point that has been sought to be raised by learned counsel for the appellant insurer Mr.Raj Kumar Bashamboo, Advocate is over quantum of compensation so awarded by the learned Tribunal, which in case of deceased Gurdev Singh has awarded ₹ 4.52 lacs along with interest at the rate of 6% per annum from the date of institution of the claim petition till realization of the amount and in case of deceased Surinder Kaur has awarded a sum of ₹ 3.50 lacs. It is contended that the same was not commensurate with the settled principle of law and was on the higher side when both the children cannot be shown to be dependent on the deceased. The arguments have been

sought to be thwarted with much force and vehemence on behalf of the claimants respondents No.1 and 2, by Mr. Nitesh Singhi, Advocate who has argued that the sudden and untimely death of both the parents in the same very accident is in itself demonstrative of the immense mental and physical agony undergone by the children. It is argued that the parents are a source of protection and dependence for the children even if the latter grow up to be parents themselves and therefore, the learned Tribunal has rightly awarded the compensation.

Going through the submissions, the claimant Sarabjit Singh in his testimony has reiterated the stand of the claimants as to the earning of the deceased father Gurdev Singh and the role of the mother deceased Surinder Kaur. He has proved copy of the bank pass-book to prove the earnings of deceased Gurdev Singh, his pension payment order, the driving license of his father who was driving the ill-fated scooter. On the other hand, the insurer accepts the factum of the offending vehicle being under insurance cover at the time of accident. The driver of the offending car did not bother to step into the witness box and refute the averments of the claimants, rather the registration of FIR against the driver of the offending car is in itself suggestive of the culpable state of acts of the driver of the offending car. No doubt, the son is aged around 48 years and working in the Air Force while the daughter is aged around 42 years and

her husband is posted as a Sub Inspector in the Punjab Police and both of them are thus having their own independent sources of income. The Motor Vehicles Act, 1988 (in short, 'the Act') admittedly is a welfare statute for the betterment of the claimants. No doubt, both the claimants are grown up and self-dependent but that does not mean or can be construed that they did not suffer any loss on account of sudden loss of both of their parents. It has been rightly contended by learned counsel for the respondents/claimants that son and the daughter with the death of their parents have lost protection, physical as well as psychological, besides sense of fulfillment of having parents to look after and cater to their daily requirements of life and emotional support. No doubt, the parents were senior citizens but one has to take a realistic approach that they would certainly be looking after their grand-children for their nurturing, psychological and physical well-being, and would be a source of joy and happiness for the entire family. By this loss the family has lost companionship, and the pain and agony that has accompanied this sudden loss can never be compensated in terms of money. One cannot ignore the fact that Surinder Kaur even in her advance age would be contributing her lot in the household chores, cooking food, cleaning and such like daily duties. The family claims to be having agricultural land besides having milching cattle and therefore, in rural household it is a matter of

common knowledge that women contribute towards looking after the cattle and agricultural produce and contribute their lot towards the source of earning from these fields. The learned Tribunal has lost sight of the fact in not awarding compensation on account of loss of consortium, loss of estate and funeral expenses, which are handsomely part of calculations in such claim petitions. Since there is no division of heads under which various amounts of compensation has been awarded, but having an overall look at the total compensation awarded in case of each of the deceased being ₹ 4.52 lacs and ₹ 3.50 lacs in lump sum and considering what has been left out as detailed in the foregoing lines, keeping in view the prevalent price index, there is no overwhelming occasion for this Court to show indulgence and thus this Court does not feel that the amount so awarded could be in any manner termed to be excessive necessitating intervention by this Court and rather appears to be just and appropriate in the prevalent scenario. In the light of the same, the impugned award does not call for any interference and both the present appeals as such are disposed of as dismissed.

(FATEH DEEP SINGH)
JUDGE

February 10, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No