

In the High Court of Punjab and Haryana at Chandigarh

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FAO-6723-2019 (O & M)

Date of Decision: January 20, 2020

**UNITED INDIA INSURANCE
COMPANY LIMITED**

.....APPELLANT

VERSUS

NIRMALA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Ram Avtar, Advocate for the appellant.

ANUPINDER SINGH GREWAL, J (ORAL)

The appellant has challenged the award dated 15.07.2019 passed by the Motor Accident Claims Tribunal, Sirsa whereby claim petition was partly allowed.

Learned counsel for the appellant contends that the factum of the accident had not been proved and, therefore, the Tribunal has erred in awarding compensation to the claimants. He also contends that one of the claimant i.e. proforma respondent No.4 had remarried and, therefore, she was not entitled to compensation.

Heard.

The claim petition had been filed by the claimants wherein it was stated that on 17.09.2016, the deceased while travelling to Sirsa on motorcycle No.HR-24-V-9629 was hit from behind by the offending vehicle driven at high speed at 'T' point village Bhangu in the area of village Panjuana. He had fallen down from the motorcycle and sustained injuries on various parts of his body.

He was taken to the hospital in an Ambulance and on the way he had

succumbed to his injuries. It was also stated that respondent No.2-Vinod Kumar was driving the offending vehicle No.HR-20-AB-4700 and the accident had taken place on account of rash and negligent driving by him. The postmortem of the deceased was conducted at General Hospital, Sirsa vide PMR No.PMR/JS/350/09/2016. The matter was reported to the Police and FIR No.93 dated 17.09.2016 under Sections 279, 304-A and 427 IPC was registered at Police Station Baragudha, District Sirsa. The deceased was 35 years of age at that time. He was an Accountant and was also working on the tea stall of his brother and was earning ₹50,000/- per month. It was also claimed that amount of ₹50,000/- was spent on the transportation and his last rites. Total compensation of ₹50 lacs along with interest at the rate of 18 per cent per annum was claimed.

Heard.

The factum of the accident having been taken place has been proved through evidence on record.

Suraj Bhan-complainant, who was the first informant as well as eye witness of the accident has tendered his affidavit Ex.PW-3/A wherein he had supported the case of the claimants that the accident had taken place as the motorcycle on which the deceased was travelling was hit by the offending vehicle driven by respondent No.2. He was taken to the hospital and succumbed to his injuries on the way. The matter had been reported to the police and FIR had been promptly lodged for the incident. The driver of the offending vehicle had also been arrested on 04.10.2016.

The respondent No.1-Nirmala, who is the mother of the deceased, had also stepped into the witness box and tendered her affidavit Ex.PW-1/A in which she had supported the factum of accident as well as the claim petition.

She had also stated that the postmortem of the deceased was conducted in General Hospital, Sirsa and a sum of ₹50,000/- was spent on the cremation and last rites of the deceased. She had further stated that the deceased had been doing the work of Accountancy and had also been working on the tea stall of his brother and was thus earning a sum of ₹50,000/- per month.

The proforma respondent No.4, who is the widow of the deceased, had deposed as PW-2 and tendered her affidavit as Ex.PW-2/A. She has also supported the factum of accident having taken place.

PW-4 HC Jagpal Singh had stated that on 17.09.2016, he was posted as Investigating Officer at Police Station Baragudha and on that date while he along with other police officials was on patrolling duty, he had received a telephonic message from MHC of the Police Station regarding the death of the deceased Ram Partap in a road accident. He had reached the General Hospital, Sirsa and near the mortuary the brother of the deceased had met him and recorded his statement as Ex.RX. Thereafter proceedings under Section 174 Cr.P.C. were carried out. He had further stated that the accused Vinod Kumar was produced by one Ajit Ram on 04.10.2016. He thereafter summoned the complainant at the spot and the accused and the vehicle No.HR-20AB-4700 were identified by him. The vehicle along with the original RC and driving licence was taken into police possession. The vehicle was mechanically examined and the challan was filed after conclusion of investigation under Sections 279, 304-A and 427 IPC.

The two claimants in the instant case are the mother of the deceased and the widow of the deceased. The submission of the learned counsel for the appellant that the widow of the deceased had remarried, therefore, she was not entitled to the compensation, cannot be accepted.

Merely because the widow of the deceased had remarried cannot be said to be a ground for denial of compensation to her. The compensation which has been awarded appears to be reasonable as the monthly income of the deceased has been taken as ₹6,000/- per month. An amount of 40% has been accounted on future prospects. After deduction of 1/3rd for the personal expenses of the deceased, the income of the deceased has been assessed as ₹67,200/- per annum. The multiplier of 15 has been applied as the deceased was 36 years of age. ₹40,000/- as consortium to the widow of the deceased while ₹15,000/- towards funeral expenses and transportation charges and another sum of ₹15,000/- towards loss of estate, has been awarded. The total compensation comes to ₹10,78,000/-. 15 % of the total compensation has been directed to be paid to proforma respondent No.4, who is the widow of the deceased, as it has been noticed by the Tribunal that she has remarried and she is residing with her husband while remaining 85% of the total compensation is to be paid to the mother of the deceased. It is not open to the appellant company to challenge the apportionment of the compensation, if at all any of the claimant is aggrieved with regard thereto, it shall be open to him/her to challenge the same in accordance with law.

Therefore, there is sufficient evidence to prove the factum of the accident having taken place and the findings of facts which have been recorded by the Tribunal do not call for interference.

The appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

January 20, 2020

A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No