

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 670 of 2020

Date of Decision: 9.1.2020

United India Insurance Co. Ltd.

...Appellant

Vs.

Reeta Rani and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

RAJIV NARAIN RAINA, J. (Oral)

1. Heard.
2. No ground for interference is made out in the well-reasoned award of the Tribunal where a perfectly justified tabulation of compensation has been made under different heads in conformity with the principles of law enunciated by the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others, (2017) 16 SCC 680.
3. Liability of the appellant is beyond dispute.
4. There was an insurance cover subsisting on the date of accident. The offending vehicle was insured. The driver held a valid driving license. The son of the deceased was not an eye-witness to the accident, therefore, no reliance can be placed on any fact stated in the DDR recorded at the police station at the behest of the son. The pillion-rider at the time of accident was not produced as a witness in evidence

by the claimants but they would not, in my considered view, lose or be non-suited on this account because the onus had shifted on to the appellant to have summoned him through court process to put the pillion-rider to face cross-examination to elicit the truth of the manner in which the fatal accident took place or whether there was any contributory negligence between the colliding vehicles. In the absence of best evidence the insurance company must lose.

5. These two issues dealt with in paragraph 4 above, were the contentions advanced by the appellant at the hearing for an admission of the appeal and both of them merit rejection.

6. There is sufficient material on record on the preponderance of probabilities that a cast iron case for compensation was clearly made out before the Tribunal in favour of the claimants.

7. The Tribunal has correctly applied the evidence on file to the law and the facts and I would be absolutely loathe to interfere with the well-reasoned award and would dismiss this patently frivolous appeal in *limine*.

8. I refrain from imposing exemplary costs on the appellant for presenting this appeal since I am dismissing the case at the threshold without issuing notice to the claimants or the owner/driver as I find no occasion to do so. However, the amount deposited by the appellant for entertainment of the appeal be remitted to the Tribunal for payment to the claimants towards meeting their litigation expenses in order to

compensate the claimants for the money they must have spent in the litigation before the Tribunal including on lawyer's fee. Accordingly, the amount deposited by the appellant for entertainment of the appeal be remitted to the Tribunal for distribution to the respondents.

9. The compensation awarded together with the interest awarded by the Tribunal be paid to the rightful owners/claimants, if not already paid, within one month of supply of the certified copy of the order, failing which, it will gather interest @ 12 % per annum from the date of default, till it stands paid.

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(RAJIV NARAIN RAINA)
JUDGE

9.1.2020

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