

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

FAO-1398-2020(O&M)

Date of decision:-22.9.2021

New India Assurance Company Ltd.

...Appellant

Versus

Sulochana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vinod Chaudhri, Advocate for the appellant.

H.S. MADAAN, J.

CM-8180-CII-2021

Heard.

For the reasons mentioned in the application, the same is allowed and the main appeal i.e. FAO No.1398-2020 is preponed for today.

FAO-1398-2020

On account of death of one Gurdev @ Gurodev in a motor vehicular accident, which took place on 27.12.2017 at about 11:15 a.m. in the area of 200 meters away from Police Station Sanoli within jurisdiction of Police Station Sanoli, Panipat, due to rash and negligent driving of Cruiser Jeep bearing registration No.HR67-A/7239 by respondent No.1 Yunish, such jeep belonging to respondent No.2 Rattan Lal and insured with New India Assurance Company Ltd., Branch Office at Panipat, his

legal representatives i.e. his widow Sulochana, aged about 33 years, daughter – Deepa (minor), aged 17 years, son – Akshit Pal (minor), aged 14 years, daughter Shivani (minor), aged 12 years, son – Guddan Pal (minor), aged 11 years, son Dipanshu (minor), aged 8 years and father – Parkash @ Parkash, aged about 53 years, had brought a claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 against respondents i.e. Unish, Rattan Lal and New India Assurance Company, Branch Office at Panipat. That petition was contested by all the three respondents. Issues on merits were framed. The parties were afforded opportunities to lead evidence in support of their claims. After hearing arguments, MACT, Panipat vide Award dated 4.11.2019 awarded compensation of Rs.23,52,816/- with interest at the rate of 7.5% per annum from the date of filing of the petition till actual realization to the petitioners payable by all the respondents jointly and severally.

Feeling aggrieved by the Award mainly on the point of quantum of compensation, the respondent No.3 – insurance company has brought the present appeal.

I have heard learned counsel for the appellant besides going through the record and I do not find any merit in the present appeal.

The Tribunal on the basis of evidence adduced before it had come to the conclusion that respondent No.1 Yunish was author of the accident by his rash and negligent driving of the offending vehicle i.e. Cruiser Jeep bearing registration No.HR67-A/7239. In that way, Yunish – driver, Rattan Lal – owner and New India Assurance Company Ltd., Panipat were held liable to pay the compensation to the petitioners, who

are legal representatives/dependents of the deceased jointly and severally. While calculating the compensation payable, the Tribunal took the age of the deceased to be 37 years and 11 months at the time of his death on 28.12.2017 succumbing to the injuries suffered by him in the motor vehicular accident. While taking the age as such, the Tribunal has taken into consideration his date of birth as 1.1.1980 on the basis of oral as well as documentary evidence. With regard to the occupation and his income, according to the claimants, the deceased was a skilled mason earning Rs.15,000/- per month and they had led oral as well as documentary evidence in that regard. However, the Tribunal in its wisdom taking the deceased to be a skilled worker assessed his monthly income as 11,040/- on the basis of notification issued by State of Haryana fixing minimum wages for skilled workers at the relevant time. No fault can be found with such approach adopted by the Tribunal. Then necessary addition to the extent of 40% has been made towards future prospects and multiplier of 15 has rightly been used. Keeping in view the number of dependants upon the deceased deduction of 1/5th has been made towards his personal expenses. The compensation so worked out by the Tribunal is proper and appropriate. The compensation awarded under conventional heads can also be not said to be on higher side. Therefore, the grouse of the insurance company regarding the compensation being on higher side is without any basis, rather the compensation is proper, appropriate and worked out using accepted yardstick and norms. Therefore, there is no ground to set aside the award.

Finding no merit in the appeal, the same stands dismissed

accordingly.

22.9.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No