

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 356 of 2021(O&M)

Date of Decision:06.08.2021

United India Insurance Company Limited

.....Appellant

Versus

Manjit Kaur and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Neeraj Khanna, Advocate
for the appellant-Insurance Company.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This appeal has been filed by the appellant-insurance company challenging award dated 24.12.2020, passed by learned Motor Accident Claims Tribunal, Moga (hereinafter referred to as 'the Tribunal').

Brief facts necessary for adjudication are that petition under Section 166 of the Motor Vehicles Act, 1988, was filed by respondents No.1 to 3 claiming compensation on account of death of Jagdeep Singh, who is claimed to have died in a motor vehicle accident, which took place on 08.06.2019, due to rash and negligent driving of the offending bus bearing registration No. PB-11-BY-0006, by its driver-respondent No. 4-Jugraj Singh @ Raj Singh. Claim petition was filed seeking compensation to the tune of Rs.40 lakhs. Deceased was claimed to be an agriculturist, dairy farmer and also working with Sewa Kendra and earning a sum of Rs.30,000/- per month. Petition was contested by the respondents.

Following issues were framed by the learned Tribunal on the

basis of the pleading of the parties:-

- ‘1. Whether Jagdeep Singh had died in a motor vehicular accident on 08.06.2019 in the area of village Singhanwala caused by respondent no.1 while driving bus bearing registration no. PB-03-AJ-0817 in a rash and negligent manner?OPP
2. Whether the claimants are entitled to compensation. If so, to what amount and from whom ?OPP
3. Whether the claim petition is not maintainable?OPR
4. Whether the claimants have no cause of action to file the present petition? OPR
5. Whether respondent no.1 was not holding valid and effecting driving licence at the time of alleged accident?OPR3
6. Whether respondents no.1 and 2 had violated the terms and conditions of insurance policy?OPR3
7. Relief.’

Learned Tribunal on considering the evidence on record concluded that Jagdeep Singh, died in a motor vehicle accident which took place on 08.06.2019, caused due to rash and negligent driving of bus bearing registration no. PB-03-AJ-0817, by its driver-respondent no.4-Jugraj Singh @ Raj Singh. Learned Tribunal while considering the deceased to be an unskilled labourer, assessed his income as Rs.8451.95/- per month and awarded a sum of Rs.13,56,945/- as compensation to the claimants, which is detailed as under:-

1.	Annual income	Rs.1,01,423/-/-
2.	50% deduction towards personal living and expenses i.e. 1,01,423/2=	Rs. 50,712/- p.a.
3.	Multiplier adopted	17
4.	Future prospects @ 40% i.e., Rs.8,62,104 + 3,44,841/-	Rs. 12,06,945/-
5.	Funeral expenses to respondent no.2-Balvir Singh	Rs.15,000/-

6.	Loss of estate respondents no. 1 to 3	Rs. 15,000/-
7.	Loss of parental consortium to respondents no.1 and 2	Rs. 40,000/- each i.e. Rs.80,000/-
8.	Loss of filial consortium to respondent no.3	Rs. 40,000/-
	Total Compensation	Rs.13,56,945/-

Learned counsel for the appellant vehemently argues that evidence on record does not prove that the accident in question was caused by rash and negligent driving of the offending bus by its driver-respondent no.4-Jugraj Singh @ Raj Singh. Learned counsel while adverting to testimony of PW-2-Kuldeep Singh, submits that this witness in his cross-examination has clearly stated that he never witnessed the accident and therefore, he has wrongly been treated to be an eye witness of the accident. Moreover, PW-2, it is stated is proved to be a planted witnesses as he did not even know the name, address or father's name of the driver of the offending vehicle and has admitted that his statement was not recorded by the police. Compensation to the deceased, it is stated is excessive as well. It is thus prayed that present appeal be allowed.

I have heard learned counsel for the appellant and have gone through the file as well as photocopy of the record, which was requisitioned.

In order to prove rash and negligent driving of the vehicle in question by respondent no.4-Jugraj Singh @ Raj Singh, claimants have examined PW-2-Kuldeep Singh. Perusal of testimony of PW-2 reveals that in his examination-in-chief, PW-2 specifically stated that on 08.06.2019, at about 8.30.a.m., he was proceeding from his village Chand Purana to village Singhanwala on his motorcycle for domestic work. When he reached near G.R. Palace, bus bearing registration no. PB-03-AJ-0817 (offending vehicle)

came from Bagha Purana side and crossed him at very high speed and then

went on to hit a car coming from opposite side. PW-2 specifically deposed that all passengers of the bus received serious injuries and one of them namely Jagdeep Singh, died on the spot. PW-2 further stated that the bus was being driven by its driver on the wrong side of the road and after causing the accident, driver of the bus fled from the spot after leaving the bus at the spot. PW-2 has further deposed that he came to know the name of the driver from the police and other people who had gathered on the spot after the accident. All injured persons are stated to have been taken to Bansal Hospital and deceased to Civil Hospital, Moga in an Ambulance.

Reference to cross-examination of PW-2 by learned counsel for the appellant and specifically to statement of PW-2 stating that he had never seen the accident himself, is being read out of context. PW-2 has explained that he was 50 yards behind the exact spot of the accident and he reached the spot after the bus had hit the car. It is in this context that PW-2 stated that he himself never saw the accident taking place. There is no evidence on record to doubt the statement of PW-2 to the effect that he was travelling on the same road and the offending bus overtook him at very high speed and was being driven in a rash and negligent manner. In-fact, the witness has truthfully stated that he was 50 yards behind the place of accident.

Furthermore, argument that PW-2 did not know name of the driver, is of no avail to the appellant. The said witness was not expected to know the name and details of the driver and he has clearly stated that he came to know the details from the police and people, who had gathered there after the accident.

Learned counsel for the appellant is unable to deny that the bus in question was abandoned at the spot by its driver. It is further proved on record that Jagdeep Singh, died due to injuries received by him in the

accident, which took place on 08.06.2019, on account of rash and negligent driving of the offending bus. Learned tribunal has returned a correct finding on this issue after proper appreciation of the evidence on record.

It is relevant to note at this stage that learned tribunal has treated the deceased to be an unskilled labourer and has assessed his income as such. Learned counsel for the appellant is unable to point out any infirmity or illegality in the calculation/ computation of the compensation awarded by the learned tribunal especially in terms of judgements of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017 (4) R.C.R (Civil) 1009**, **Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) R.C.R (Civil) 333** and **United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, 2020(3) R.C.R (Civil) 75**.

Learned counsel for the appellant is unable to point out any illegality, perversity or infirmity in the impugned award 24.12.2020, passed by the learned Motor Accidents Claims Tribunal, Moga, which calls for any interference by this Court at the instance of the appellant-insurance company.

No other argument has been addressed.

Appeal is accordingly dismissed with no order as to costs.

Pending applications, if any, are accordingly disposed of.

06.08.2021
s.khan

[LISA GILL]
Judge

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