

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 502 of 2021 (O&M)

Date of Decision: 08.07.2021

National Insurance Company Limited

... Appellant(s)

Versus

Pooja Devi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Nitin Gupta, Advocate
for the appellant.

Mr. Sagar Aggarwal, Advocate
for the caveator-claimant(s).

Anil Kshetarpal, J.

1. Through this appeal, the insurer has assailed the correctness of the award passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as “the learned Tribunal”). A claim petition, filed under Section 166 of the Motor Vehicles act, 1988 (hereinafter referred to as “the 1988 Act”) has been allowed by the learned Tribunal while assessing the compensation at ₹ 45,49,936/- on account of the death of late Sh. Davinder Singh, aged about 37 years, in a motor vehicular accident. As per the case of the respondent-claimants, late Sh. Davinder Singh was going to Talwara from his village on his scooter. When he reached near the turning point of village Bhera on Mukerian-Talwara road, the offending truck, being driven in a very rash and negligent manner and at a very high speed by respondent-Ajay Kumar, hit the scooter of the deceased. The

deceased fell down on the road and succumbed to his injuries. It is pleaded

that the accident was witnessed by Surjit Singh, Karnail Singh, Ranjit Singh, Neeraj, Davinder Singh, Harjinder Singh and others. It is claimed that the deceased was employed at Amana Steel Buildings Contracting LLC, Dubai, U.A.E. at the salary of ₹40,000/- per month besides free lodging/accommodation and meals. It is also pleaded that the deceased had another job offer from M/s Dogma General Constructing, Abu Dhabi, U.A.E. Upon notice, the respondent No.1 contested the claim petition by claiming that the claim pleaded is highly exaggerated. It is also pleaded that he was not driving the vehicle rashly, negligently and at a high speed. The respondent No.1 claimed that the accident took place due to the sole negligence of the deceased. The insurer contested the petition by claiming that respondent No.1 did not have a valid driving license and the truck had no route permit, registration certificate and fitness certificate.

2. The claimants, in order to prove their case, examined as many as four witnesses including an eye witness-Karnail Singh. On the other hand, the respondents did not lead any oral evidence.

3. Heard learned counsel for the appellant and respondents-caveators.

4. Learned counsel representing the appellant submits that the learned Tribunal has erred in applying multiplier of 16, although, only multiplier of 15 should have been applied. Learned counsel representing the caveators does not dispute this fact and submits that he has no objection if the multiplier is reduced to 15.

5. Next argument of the learned counsel representing the appellant is that the claimants have failed to produce any evidence to prove the income

of the deceased. It would be noted here that the claimants have produced a copy of the passport, copy of the residency identity card, certificate of employment showing that late Sh. Davinder Singh was employed as a Skilled Finishing Carpenter and Interior Decorator. The claimants have also produced the tickets Ex.A28 and Ex.A29. Apart therefrom, Smt. Pooja Devi, the widow of the deceased, has deposed that her husband was earning ₹40,000/- per month. The learned Tribunal has assessed the income at ₹25,000/- per month. The claimants have also produced the statements of bank account showing that the deceased was remitting the amount to his wife regularly. In these circumstances, particularly when the respondents have not produced any evidence, the assessment made by the learned Tribunal is not shown to be excessive. If the deceased was working as a skilled worker in Dubai for quite some time, the assessment of income at ₹25,000/- per month cannot be said to be excessive.

6. Next argument of the learned counsel representing the appellant is that the learned Tribunal has erred in awarding simple interest at the rate of 9% from the date of filing of the claim petition till the date of award with future interest at the rate of 6% till its realization. The interest awarded is simple interest. The learned Tribunal has awarded the interest at the rate of 9% per annum during the pendency of the claim petition which remained pending for one year and five months. In these circumstances, the rate of interest cannot be said to be excessive.

7. Keeping in view the aforesaid discussion, the appeal is partly allowed by modifying the award passed by the learned Tribunal to the extent that the claimants shall be entitled to compensation after applying the

multiplier of 15 and not the multiplier of 16. The compensation payable is reworked as under:-

Sr. No.	Heads under which the amount to be awarded	Amount of compensation awarded	Total amount
1.	Income of the deceased	₹2,79,936.00 (Apply multiplier of 15)	41,99,940.00
2.	Loss of love & affection, consortium and funeral expenses	70,000.00	70,000.00
Total amount of compensation			42,69,940.00

8. With these modifications, the appeal is disposed of.
9. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

July 08, 2021
“DK”

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