

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 639 of 2021 (O&M)

Date of Decision: 06.10.2021

The Oriental Insurance Company Limited

... Appellant(s)

Versus

Rekha and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Punit Jain, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The appellant-insurance company assails the correctness of the award passed by the Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as “the Tribunal”) on 29.01.2021 while allowing the claim petition filed under Section 140 and 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the 1988 Act”).

2. Late Sh. Naresh, resident of the village Simla Gujran, Tehsil Bapoli, District Panipat, died in the motor vehicle accident that occurred on 04.08.2018. Late Sh. Naresh, at the time of accident, was driving his motor cycle bearing registration No. HR-60-2836. On the complaint of Ankit son of late Sh. Naresh, the FIR No. 94 dated 04.08.2018 was registered.

3. The insurance company does not dispute the correctness of the findings arrived at by the Tribunal with respect to the involvement of the vehicle and the accident having occurred due to the rash and negligent

driving of the respondent No.1-Pardeep Kumar (the driver of the offending

car bearing registration No. HR-60-F-5038).

4. The learned counsel representing the appellant contends that the Tribunal has erred in assessing the monthly income of the deceased at ₹15,000/-. He submits that in the absence of any evidence to prove that the deceased was earning ₹15,000/-, the Tribunal has erred. He further contends that Ankit did not file the claim petition but the Tribunal has awarded him a sum of ₹40,000/- towards the parental and filial consortium.

5. It has come in the evidence that the late Sh. Naresh was running a karyana shop apart from the milk dairy in the village Simla Gujran. The widow and Ankit (son of the deceased) appeared in evidence and deposed about the occupation of the late Sh. Naresh. The Tribunal has believed in their statements. On a Court question, the learned counsel representing the appellant-insurance company expresses his inability to assist on the ground that he does not have the copy of the statements of the aforesaid witnesses.

6. Keeping in view the aforesaid facts, the learned counsel representing the appellant should not have raised any objection without equipping himself with the necessary documents.

7. As regards the next argument, undoubtedly, the claim petition was filed by Smt. Rekha, widow of late Sh. Naresh. However, Ankit, son of late Sh. Naresh, appeared in the evidence as PW.2. The Tribunal has awarded him only a sum of ₹40,000/- for the loss of consortium.

8. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present appeal is dismissed.

9. The office is directed to remit the amount deposited by the appellant to the Tribunal.

10. The miscellaneous application(s) pending, if any, shall be disposed of.

(Anil Kshetarpal)
Judge

October 06, 2021
“DK”

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