

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

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**FAO Nos.666 of 2021 (O&M)
Decided on : 02.09.2021**

ICICI Lombard General Insurance Company Limited

... Appellant

Versus

Kartar Singh and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate for the appellant.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawal, J. (Oral)

CM-7786-CII-2021

Application to place on record judgment dated 07.10.2017 passed by learned Sub-Divisional Judicial Magistrate, Mukerian as Annexure A-1, is allowed. The same is taken on record. Office to append the same at the relevant place.

CM stands disposed of.

Main case (O&M)

The appellant-Insurance Company is in appeal which has been filed against the Award dated 10.02.2021 passed by the Motor Accident Claims Tribunal, Hoshiarpur (for short 'Tribunal'), whereby a sum of Rs.9,02,800/- had been awarded on account of the death of Kanta Devi. The claimants are husband and children of the deceased.

Counsel for the appellant-Insurance Company has vehemently submitted that the respondent No.1 was acquitted in the criminal

proceedings on 07.10.2017 (Annexure A-1) by the Sub-Divisional Judicial Magistrate, Mukerian, on account of the complainant-Shamsher Singh and eye witness Lakhvir Singh having turned hostile. Therefore, he submits that the Tribunal was not correct in foisting the compensation upon the appellant-company, being insurer of the offending vehicle.

A perusal of the paper-book would go on to show that the deceased who was stated to be household lady had crossed the second portion of the road after getting down from a tempo, when the insured Activa Scooter being driven by respondent No.5 herein had struck her. She had fallen on the ground and received injury on her head and also received multiple injuries on her person and died at the spot on 15.08.2016. It is not disputed that FIR No.147 was also lodged on the same day under Sections 304-A & 279 IPC against the driver on the statement of Shamsher Singh, the brother of the deceased.

In such circumstances, the argument as such that merely because they have been acquitted, would not absolve the insurance company of its responsibility to pay the amount of compensation. The Apex Court in **Sunita & others Vs. Rajasthan State Road Transport Corporation & another, 2019 SCC Online 195** has held that the strict principles of proof in a criminal case will not be applicable in a claim for compensation under the Act and that the standard to be followed in such claims is one of preponderance of probability rather than one of proof beyond reasonable doubt.

The said view has been followed in **Anita Sharma and**

others Vs. The New India Assurance Company Ltd. and another', 2021 (1) SCC 171 and, therefore, merely because the complainant and eye witness did not support the prosecution version, would not mean that the claimants are not entitled on account of the death of the deceased.

The Tribunal has found that the deceased was a household lady and taken her income @ Rs.9,000/- per month. 1/3rd was deducted towards personal expenses on account of the fact that there were 4 claimants, out of which two were married and third one was in the police department. Addition of 10% had been made on account of future prospects. After deducting 1/3rd towards her personal expenses and loss of dependency, the annual income was assessed @ Rs.79,200/-. Multiplier of 9 had been applied as the deceased was stated to be of 60 years of age and Rs.40,000/- per claimant had been awarded on account of loss of consortium and Rs.15,000/- each for funeral expenses and loss of estate had been awarded, to grant compensation of Rs.9,02,800/-. The same has also to be distributed amongst claimants in the ratio that the husband shall be entitled to get 40% share of compensation and remaining 60% shall be distributed amongst claimant No.2 and 4 in equal shares.

The amount awarded is just compensation on account of the death of household lady whose contribution to the family as such cannot be discounted in any manner as per the settled principles by the Apex Court.

The amount of Rs.25,000/- which was deposited with this

Court be remitted to the Tribunal for adjustment against the amount awarded.

Accordingly, there is no merit in the present appeal and the same is dismissed in limine.

September 02, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No