

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-540-2021(O&M)
Date of decision:09.07.2021

United India Insurance Company Limited

.....Appellant

Versus

Jarnail Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Varun Sharma, Advocate for
Mr. Ashwani Talwar, Advocate, for the appellant

Mr. Chandandeep Singh, Advocate for
respondent no. 1 and 2

ANIL KSHETARPAL, J.

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The insurer assails the correctness of the award passed by the Motor Accident Claims Tribunal, Chandigarh, in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 on account of death of Late Sh. Harjinder Singh, in a motor vehicular accident. His parents filed a claim petition under Section 166 alleging that respondent no.3-Ajay Kumar had caused the accident due to rash and negligent driving of his truck bearing registration no. HP-12-A-7419. In order to prove the accident, Sh. Gurdeep Singh, an eye witness was examined as PW2. Learned Tribunal, while allowing the claim petition, assessed the compensation at Rs.24,49,200/-. The Insurance Company has been directed to first satisfy the claim and thereafter, recover the amount of

compensation from respondent no.3 by initiating proceedings before the Executing Court.

Learned counsel representing the insurer does not dispute the correctness of the findings arrived at by the learned Tribunal on the issue of rash and negligent driving of respondent no.3. However, learned counsel submits that the Tribunal has erred in assessing the income of the deceased at the rate of Rs. 18,000/- per month. He contends that the deceased was working as a truck driver on a monthly salary of Rs.12,000/-. He submits that the Tribunal, without sufficient evidence, accepted the version of the claimants that the deceased also used to Rs.6,000/- from dairy farming. He further contends that in any case the buffaloes kept by the deceased are still with the claimants and therefore, the Tribunal has erred in awarding the amount on that aspect. He further contends that once it is established that Late Sh. Harjinder Singh was working as a driver and hence, used to remain out of station travelling on his vehicle almost for a period of 18 days in a month, then he cannot be expected to make any contribution towards dairy farming.

This Bench has considered the submission of the learned counsel representing the appellant and with his able assistance perused the paper book. It may be noted here that Late Sh. Harjinder Singh died at the young age of 35 years. In order to prove that Late Sh. Harjinder Singh was working as a driver on a monthly salary of Rs.12,000/-, Sh. Rameshwar Singh, his employer has been examined as PW3. He has stated that previously he was owner of two trucks whereas now he is owner of one truck only. He has specifically deposed that he used to pay

salary at the rate of Rs.12,000/- per month to Late Sh. Harjinder Singh, apart from daily diet allowance of Rs.100/-. Learned counsel representing the appellant - Insurance Company has cross examined the witness, however, failed to discredit his deposition. As regards, the income from the dairy farming, it may be mentioned that Smt. Jarnail Kaur (deceased's mother) has deposed that Late Sh. Harjinder Singh had kept 5-6 buffaloes and used to earn more than Rs.400-500/- daily by sale of the milk. The correctness of the aforesaid statement of Smt. Jarnail Kaur has not been challenged by the counsel for the Insurance Company in the cross-examination. Still further, Gurmeet Singh, Panch of the Gram Panchayat of the village has also been examined by the claimants to prove that Late Sh. Harjinder Singh used to run a dairy farm. Learned Tribunal has assessed the income from dairy farming at Rs.6000/- per month.

Keeping in view the aforesaid discussion, this Bench does not find that the income assessed from the dairy farming by the Tribunal is excessive.

Now let us analyze the other arguments of the learned counsel representing the appellant. With respect to the argument of the learned counsel representing the appellant that the deceased being an employee was not expected to contribute his services towards dairy farming, it may be noted here that the employer himself has stated that Late Sh. Harjinder Singh used to go out of station travelling on his vehicle almost for a period of 18 days in a month. It is nowhere the case that Late Sh. Harjinder Singh used to remain busy even during the

remaining days of the month. In Northern India, if a family keeps milk yielding livestock, all the family members are expected to render/contribute their services for the same. Late Sh. Harjinder Singh was a young man of 35 years. His parents- claimants are of old age. In these circumstances, the Tribunal has assessed the contribution of Late Sh. Harjinder Singh towards dairy farming as Rs.6000/- per month or in other words Rs.200/- per day. Such assessment by the Tribunal cannot be said to be unreasonable.

Next argument of the learned counsel representing the appellant that the milk yielding buffaloes are still available with the claimants is to be noted and rejected, particularly, when Late Sh. Harjinder Singh was the main person who was augmenting his income by keeping 5-6 milk yielding buffaloes. There is no evidence that the claimants continue to keep/rear milk yielding buffaloes. As noticed above, the learned counsel representing the insurance company did not cross examine Smt. Jarnail Kaur on this aspect.

In view of the aforesaid discussion, no ground to interfere is made out.

Hence, dismissed.

All the pending miscellaneous applications, if any, also stand disposed of.

09.07.2021
rekha

(ANIL KSHETARPAL)
JUDGE

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