

In the High Court of Punjab and Haryana, at Chandigarh

1. F.A.O. No. 7145 of 2019 (O&M)

New India Assurance Company Limited
... Appellant(s)

Versus

Smt. Ranju and Others
... Respondent(s)

AND

2. F.A.O. No. 305 of 2020 (O&M)

Smt. Ranju and Others
... Appellant(s)

Versus

Savita Rani and Others
... Respondent(s)

DATE OF DECISION: 16.09.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vipul Sharma, Advocate
 for Mr. Paul S. Saini, Advocate
 for the appellant (In FAO-7145-2019) and
 for respondent No.3 (In FAO-305-2020).

Mr. Shakti Mehta, Advocate
 for the appellant (In FAO-305-2020) and
 for respondent No.1 to 4 (In FAO-7145-2019).

Anil Kshetarpal, J.

1. By this order, F.A.O. No. 7145 of 2019 and 305 of 2020 arising from a common award, passed by the Motor Accident Claims Tribunal, while allowing the claim petitions filed under Section 166 of the Motor Vehicles Act, 1988, shall stand disposed of.

2. The learned counsel representing the parties are *ad idem* that both the appeals can be disposed of by a single order.

3. The claimants are the widow, two children and aged mother of

deceased Ravinder Kumar. He died in a motor vehicle accident on

11.12.2017. The learned counsel representing the parties have not questioned the findings of the Tribunal with regard to the involvement of the vehicle and rash and negligent driving of respondent No.6-Vikram Singh.

4. The learned counsel representing the insurance company contends that the Tribunal erred in assessing the compensation by taking the age of the deceased to be 48 years on the basis of the post mortem report. He contends that as per the income-tax returns filed, he was born on 02.02.1966 and therefore, his age on the date of accident was 51 years. On the other hand, the learned counsel representing the claimants has produced in additional evidence a copy of the driving license of late Sh. Ravinder Kumar, which shows that the deceased was born on 24.04.1970. The correctness of the aforesaid driving license is not in dispute. Hence, the claimants are permitted to produce the driving license of the deceased in additional evidence.

5. No doubt, there is a difference between the date of birth in the driving license as well as the income-tax record of the deceased-late Sh.Ravinder Kumar, however, neither of them is a document to prove his age. In the present case, the insurance company except giving suggestion to Smt. Ranju, widow, that the age of the deceased was 51 years at the time of his death, did not lead any evidence. Furthermore, the post mortem report also proves that the age of the deceased was 49 years at the time of the accident.

5. Keeping in view the aforesaid facts, this Bench does not find it appropriate to disturb the finding of fact arrived at by the Tribunal.

305-2020) submits that the Tribunal erred in relying upon the income-tax returns for the year 2016-17 rather than of 2017-18. He submits that the Tribunal has committed an error while failing to rely upon the income-tax return for the year 2017-18.

7. In the present case, the accident took place on 11.12.2017. The learned counsel representing the claimants, on being requested, failed to disclose the date on which the income-tax return for the year 2017-18 was filed. The Tribunal, after noticing that the accident took place on 11.12.2017, has relied upon the income-tax return of the immediate preceding year i.e. 2016-17.

8. Keeping in view the aforesaid facts, both the appeals are found to be without merits. Consequently, both the appeals are dismissed.

9. The miscellaneous application(s) pending, if any, in both the appeals shall stand disposed of.

**(Anil Kshetarpal)
Judge**

September 16, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No