

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-379 of 2022(O&M)
Date of decision:08.03.2022

Oriental Insurance Company Limited

...Appellant

Versus

Smt. Ritu Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Pabbi, Advocate, for the apepllant.

ANIL KSHETARPAL, J (Oral)

The Insurance Company calls into question the correctness of the award passed by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') while allowing the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of late Sh. Sunil in an automobile accident on 27.01.2019.

Late Sh. Sunil has left behind a widow, a minor son and aged parents. The Tribunal after appreciating the evidence has assessed the amount of compensation of Rs.25,44,280/-.

The learned counsel representing the appellant does not dispute the involvement of the vehicle in the accident.

As per the case of the claimants, late Sh. Sunil along with his brother Sh. Anil and one Jitender was coming back from Panipat when their car met with an accident.

The learned counsel representing the appellant has challenged the findings of fact on the following three grounds:-

- (1) The car in which the deceased was travelling had rammed into a stationary/parked vehicle, therefore, the tribunal has erred in refusing to hold that the deceased-Sunil was also contributory negligent in causing the accident.
- (2) The tribunal has erred in deducting 1/4th of the income on account of personal and living expenses.
- (3) The tribunal has wrongly assessed the income @ Rs.10280/- per month in absence of evidence.

It is evident that late Sh. Sunil was driving the ill-fated car which rammed into a stationary truck from behind. However, the Tribunal has found that the stationary truck was parked in the middle of the road at 11:00 PM without switching of the parking lights or placing any signal or reflector. It has also come in evidence of Anil, who appeared as PW2 that at the time of an accident, vehicles from the opposite side with their head lights were coming and therefore, the stationary truck was not visible.

The respondents before the Tribunal did not lead any evidence.

The learned counsel representing the appellant failed to draw the attention of the Court to any evidence to prove that late Sh. Sunil was contributory negligent. Sh. Anil was cross-examined by the learned counsel representing the respondents before the Tribunal, however, despite searching question, the counsel failed to impeach his credibility.

In such circumstances, there is no error in the findings of the Tribunal that the stationary truck had been parked in the middle of the road without switching the parking lights or placing the light reflectors. In such circumstances, there is no substance in the first argument of the learned counsel representing the appellant.

The second argument of the learned counsel also does not have substance because the deceased-Sunil has left behind as many as 3 dependants. Even on the exclusion of the father of the deceased, the remaining members of the family are four in number.

Hence, the Tribunal has correctly deducted 1/4th of the income towards personal and living expenses of the deceased.

The next argument of the learned counsel is with regard to the correctness of the income assessed.

It is not in dispute that the deceased was driving a car. As per the case of the claimants, the deceased-Sunil was running a shop under the name of “Maha Laxmi Alignment and Wheel Balancing”. The deceased was an educated man. He has left behind a widow and a minor child apart from the aged parents. The accident took place on 27.01.2019. Hence, no case for interference in the income assessed by the Tribunal is made out.

Consequently, the appeal is dismissed.

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

March 08, 2022
nt

(ANIL KSHETARPAL)
JUDGE

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