

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

**FAO-598-2022 (O&M)**  
Date of decision: 23.09.2022

Shri Ram General Insurance Company Limited

....Appellant

Versus

Geeta and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sanjeev Kodan, Advocate for the appellant

**ANIL KSHETARPAL, J (Oral)**

The Insurance Company assails the correctness of the award dated 10.12.2021 passed by the Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal') on account of death of a person named Mahender. As many as 6 claimants filed the petition under Section 166 of the Motor Vehicles Act, 1988, which was allowed by the Tribunal. The claimants were held entitled to Rs.31,97,232/- as the compensation.

Heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook. Learned counsel representing the appellant contends that the involvement of the vehicle No.UP-85-BD-1935 is not proved because Sachin, the author of the FIR was not the eye witness and deposition of Sunil (PW 3) cannot be relied upon by the court. He further submits that the alleged accident had taken place in the State of Uttar Pradesh whereas the claim petition was filed in the State of Haryana. While questioning the correctness of the quantum of compensation, he submits that the Tribunal has erred in

assessing the income on the basis of the minimum wages notified by the Deputy Commissioner in place of the minimum wages notified by the Labour Commissioner under the Minimum Wages Act, 1948.

Sachin (PW2) is the brother of late Sh. Mahender. He being its author has proved the FIR. On the other hand, PW3 Sunil son of Vijay was on the pillion of the same vehicle alongwith the deceased. He has deposed about the manner and the involvement of the offending vehicle UP-85-BD-1935 in the occurrence of the accident. An opportunity was given to the learned counsel representing the Insurance Company to cross examine the witness. During the cross examination, Sunil has disclosed that he sustained injuries in the accident including fracture in his leg and he was medically examined. The police had recorded his statement on 26.03.2019. Learned counsel representing the Insurance Company did not call upon the witness (Sunil) to produce the record of injury suffered by him and the treatment he received. Thus, Sunil (PW3) has proved the accident. Consequently, there is no substance in the first argument of the learned counsel representing the appellant.

As regards the second argument, the claimants have claimed that they are now residing at village Dudholi, Tehsil Punhana, District Nuh, i.e within the territorial jurisdiction of Tribunal, Mewat. As per the provisions of the Motor Vehicles Act, 1988 the claimants are entitled to file a petition at the place where they are residing. The Insurance Company has not led any evidence to prove that the claimants are not

residing within the territorial jurisdiction of Nuh. Moreover, the learned counsel representing the appellant has failed to draw the attention of the Court to any prejudice caused to them.

As regards the last argument, it may be noted that Mahender lost his precious life in an automobile accident while leaving behind as many as six claimants including widow, two minor children, widowed mother and two minor sisters. He was 24 years old when he lost his precious life. In the absence of the documentary evidence of the income, the Tribunal has assessed the income on the basis of daily wages fixed by the Deputy Commissioner of the District. It is not at all necessary for the Tribunal to rely upon the minimum wages notified by the Labour Commissioner under the Minimum Wages Act, 1948. While assessing the income, the Tribunal is required to appreciate the evidence and assess the amount keeping in view the facts of the case. In the present case, the Tribunal has opted to rely upon the minimum wages fixed by the Deputy Commissioner. This Court does not find any ground to interfere.

Hence, dismissed.

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

23.09.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)**  
**JUDGE**