

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

FAO No.1402 of 2022 (O&M)
DATE OF DECISION: 18.04.2022

United India Insurance Company LimitedAppellant

versus

Umesh Kumari and OthersRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satpal Dhamija, Advocate for the appellant

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ALKA SARIN, J.:

The present appeal has been filed by the Insurance Company challenging the award dated 01.12.2021 passed by the Motor Accident Claims Tribunal, Hisar awarding an amount of Rs.67,42,300/- on account of death of Surender Kumar.

The sole argument raised by the learned counsel for the appellant is that the deceased was stated to have been running a poultry farm and on the basis of the income-tax return produced in the evidence, the income of the deceased was assessed at Rs.4,72,950/- per annum. The

learned counsel would contend that the business of the poultry farm is still running and hence the amount of compensation ought to be reduced accordingly.

Before adverting to the argument raised by the learned counsel for the appellant, it is necessary to notice a few facts. The claim petition was filed on behalf of the claimant-respondent Nos.1 and 2 i.e. wife of the deceased and minor son of the deceased stating therein that the deceased Surender Kumar was going from Isharwal to his poultry farm on Siwani Road on his motorcycle. He was followed by Pawan Kumar and Sombir on another motorcycle. The deceased Surender Kumar is stated to be driving his motorcycle adhering to all traffic rules and, in the process of overtaking Tata Canter bearing registration No.HR-39D-4300, which was being driven in a rash and negligent manner and without any signal, the Tata Canter struck the motorcycle of the deceased Surender Kumar resulting in his falling down and receiving multiple grievous injuries which proved fatal.

In order to prove the income of the deceased Surender Kumar, the income-tax returns were produced in evidence and his income was assessed at Rs.4,72,950/- per annum. The sole argument which has been raised by the learned counsel for the appellant that since the income of the deceased Surender Kumar was from the poultry farm which is being run even after his death and as such the income be reduced, cannot be accepted. The learned counsel has failed to show any evidence on the record to substantiate the said argument except for a self-serving investigative report dated 11.01.2022 prepared by a General Insurance Investigator stating

therein that the business is still running. The investigation by the General Insurance Investigator was undertaken after the award dated 01.12.2021 was passed by the Motor Accident Claims Tribunal, Hisar

The appellant neither raised any such plea before the Tribunal nor led any evidence to the said effect. Even before this Court only a photocopy of the report dated 11.01.2022 has been sought to be placed on the record. No application has been filed for leading additional evidence. In the absence of any pleadings or evidence to substantiate the argument raised by the appellant, the same is liable to be rejected.

In view of the pleadings and evidence on the record and the findings recorded, I do not find any illegality or infirmity in the impugned award passed by the Tribunal. The present appeal is without merit and is dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

(ALKA SARIN)
JUDGE

18.4.2022
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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