

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.814 of 2022(O&M)

Date of decision:10.03.2022

Royal Sundram Alliance Insurance Co. Ltd.

...Appellant

Versus

Rohit Joshi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Kumar Prajapati, Advocate
for the appellant.

ANIL KSHETARPAL, J (Oral)

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

The Insurance Company calls into question the correctness of the award passed by the Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') by filing the present appeal.

Some facts are required to be noticed.

Respondent(claimant-Rohit Joshi), aged about 29 years, suffered grievous injuries in an automobile accident with a Fortuner Car bearing No.CH-01-BD-2020, which took place on 28.12.2017.

Sh. Rohit Joshi was travelling on a scooter. He is stated to be working with Paytm and also a part time helper in PGI, Chandigarh. He was stated to be earning Rs.25,000/- per month.

The respondents contested the claim petition. Respondent no.1 and 2 took a stand that at the time of the accident, the vehicle was being

driven by Varinder Singh.

On appreciation of the evidence, the Tribunal has recorded a finding that in fact, the vehicle was being driven by Rupinder Singh son of Daljeet Singh, at the time of the accident. It has been found that an FIR involving Rupinder Singh has been registered and a criminal case is pending on the basis of the aforesaid FIR. Shri Rupinder Singh also admits his presence at the spot.

The learned counsel representing the Insurance Company contends that the Tribunal has erred while recording a finding that the offending vehicle was being driven by Rupinder Singh and not by Varinder Singh. He further contends that the Tribunal has also erred while assessing the monthly income of Shri Rohit Joshi (injured) @ Rs.10,000/- per month, whereas, as per the notification issued by the Chandigarh Administration, the minimum wages of unskilled workers are @ Rs.9,000/- per month.

This Court has considered the submissions of the learned counsel representing the appellant and with his able assistance perused the award passed by the Tribunal.

It is evident that on appreciation of the evidence, the Tribunal has recorded a finding of fact. The Insurance Company has failed to produce any substantial evidence to prove that Sh. Varinder Singh was driving the vehicle at the time of an accident. When the accident took place, respondent-Rupinder Singh admits his presence at the spot when the accident took place. In the absence of any clinching evidence, this Bench does not find it appropriate to interfere with the findings of fact. The Tribunal is required to decide the claim petition on preponderance of probabilities.

Hence, there is no substance in the first argument.

The second argument of the learned counsel representing the appellant is with respect to the notification issued by the Chandigarh Administration prescribing the minimum wages @ Rs.9,000/- per month.

On a careful reading of the award passed by the Tribunal, it is evident that the Tribunal has assessed the income of the injured @ Rs.10,000/- per month. The injured has suffered 71-99% disability. The injured is residing in the city of Chandigarh. He is proved to be working. The notification issued prescribing the minimum wages under the Minimum Wages Act, 1948, may be of persuasive value but the same is not binding on the Tribunal.

In view thereof, no ground to interfere is made out.

Dismissed.

The amount of Rs.25,000/- be remitted to the Tribunal.

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

March 10, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No