

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

FAO-2629-1996

Date of decision: 27.04.2022

M/s United India Insurance Company Ltd.Appellant

versus

Jaswinder Kaur alias Mukhtiar Kaur
and othersRespondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.K. Bashamboo, Advocate
for the appellant.

FATEH DEEP SINGH, J.

The appellant-M/s United India Insurance Company Ltd. (in short 'the insurer Company') has come up in this appeal laying challenge to an award dated 02.03.1996 passed by the Court of learned Motor Accidents Claims Tribunal, Patiala, whereby, the Tribunal had allowed the claim petition of the claimants awarding compensation to the tune of Rs.4,14,000/- with interest at the rate of 12% per annum from the date of petition till its realization.

Heard counsel for the parties and perused the records.

It was on 21.10.1994 around 3:50 P.M., Hakam Singh was going on his scooter bearing No.PB-11-5770 (in short 'ill-

fated vehicle’) and while, he was going near the Jail Nabha, truck bearing No.PUP135, driven by Gurpal Singh, owned by Bant Singh, came in a rash and negligent manner (in short ‘the offending truck’) and struck against the scooter resulting in the death of the deceased. The claimants are the widow, minor sons and widowed mother, who have invoked the jurisdiction of the Tribunal under Section 166-A of the Motor Vehicles Act (in short ‘the Act’) seeking compensation for the same.

The stand of the respondents was of utter failure and none has come into the witness box to rebut the factum of the accident resulting in this death of the deceased as a consequence of the accidental injuries. As is the testimony of the widow, the deceased was aged around 28 years at the time of death. Though, she claims that the deceased was earning Rs.5,00,000/- per year, however, nothing substantial has been brought on the record to this effect. The deceased after the accident prior to his death was under medical treatment and certainly the family must have spent money on his treatment for almost 06 days he remained battling with the injuries. The Tribunal had by all logical conclusions drawn the inference that a sum of Rs.20,000/- was spent on the treatment and has awarded Rs.10,000/- for the last rites and ceremonies.

Mr. R.K. Bashamboo, counsel for the appellant has sought to vehemently oppose these findings but could not convince this Court on what score, the same were on higher side. The factum that the offending vehicle was not insured at the time of the accident could not be established by the insurer/appellant as the onus lay heavily upon them to do so and which they failed to do. More so, the factum that the driver did not have valid and legal driving license the onus was of the insurer who did not lead any evidence and to the specific query of this Court, learned counsel for the appellant was totally unable to convince how or by what evidence, it is established, as onus lay upon them that the driving license of that driver was not legal and valid.

Irrefutably, the deceased was 28 years of age and has left behind a young widow, minor kids and a widow mother who certainly must have to undergo great plight of this untimely loss of their bread earner. The Court though has unreasonably assessed the loss of income to the family who are dependents to the tune of Rs.2,000/- and has assessed the annual loss to be Rs.24,000/-, however, in the absence of any challenge by the claimants as to the quantum of compensation this Court refrains itself from commenting upon this aspect of the matter. The Court has rightly

applied the multiplier and has drawn the conclusion that the claimants are entitled to Rs.4,14,000/- as compensation how the same was on the higher side or the interest of 12% so awarded then, way back in the year 1995, which were reasonable banking rates at that time was incorrect.

The Tribunal has given a well reasoned finding holding that the deceased has left behind a young widow, two minor sons and a widowed aged mother certainly this amount was totally commensurate with the loss the family/dependents have to suffer on account of this death. The premise on the basis of which, learned counsel for the appellant has sought to put forth his case that the driving license could not be proved to be not valid and that this Court had passed order seeking report from the Registry does not convinces the Court much. Since, the present matter is an appeal and in the absence of any prayer/application for leading additional evidence such an order is not permissible and is rather to the prejudice of the other party who did not have any other opportunity to oppose it and by what means and manner, the said document can be exhibited and how by what means, the other side would be allowed to rebut this evidence is anybody's guess and, therefore, certainly to the mind of this Court, such a recourse is not permissible.

In light of the foregoing discussions detailed above, this Court does not find any illegality in the award under challenge and thus, the appeal, being hopelessly without merits, stands dismissed.

27.04.2022
Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No