

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

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FAO-1785-2022 (O&M)
Decided on : 28.04.2022

Shriram General Insurance Company Ltd.
Versus
Smt. Rani and others

. . . Appellants

. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashwani Talwar, Advocate
for the appellant-Insurance Company.

MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been preferred by the appellant-Insurance Company against the award dated 02.02.2022, passed by the learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal'), in the petition filed under Section 166 of the Motor Vehicles Act, 1988, filed by the claimants/respondents No.1 to 3, whereby, the compensation in the sum of Rs. 9,43,488/-, was awarded to the claimants/respondents No.1 to 3 i.e. wife and sons of the deceased Jag Ram. The amount awarded by the Tribunal in the sum of Rs.9,43,488/- was assessed and granted as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.9024/- (round figure)
2.	Future Prospects (10%)	Rs. 902 (round figure)
3.	Total Income	9024 + 902 = Rs. 9,926/- p.m.
4.	Total Annual Income	9,926 x 12 = Rs. 1,19,112/-
5.	Deduction (1/3 rd)	Rs.39,704/-
6.	Annual Dependency	Rs.79,408/-
7.	Multiplier	11
8.	Total Dependency	Rs.49,408 x 11=Rs.8,73,488/-
9.	Funeral & last rites expenses	Rs.15,000/-

10.	Loss of Estate	Rs.15,000/-
11.	Loss of consortium	Rs.40,000/-
12.	Total Compensation	Rs.9,43,488/-

2. A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 3 may be noticed. On the intervening night of 6/7.11.2019, while the deceased Jag Ram was returning home on his motorcycle bearing registration No. HR-43A-4533, the offending vehicle i.e. Swift Dzir Car bearing registration No. HR-37J-1380, being driven by respondent No.1 – Sunil Kumar (respondent No.4 herein) in a rash and negligent manner, came from the opposite side and hit against the motorcycle of the deceased. The deceased sustained multiple and grievous injuries on his person. He was shifted to Government Hospital, Charkhi Dadri, where he was declared brought dead. FIR No. 60, dated 07.11.2019, u/s 279/304-A of IPC, was got registered at P.S. Jhojhu Kalan.

3. The accident in question was witnessed by one Veer Bhan. The deceased Jag Ram aged 50 years, was stated to be working as a security guard in the Anaj Mandi Charkhi Dadri. Besides this, it was claimed that he was doing agriculture and dairy farming, from which he was earning Rs. 30,000/- p.m. On the basis of material on record and other evidences, the Tribunal awarded the compensation, which stands already stands reproduced hereinabove.

4. Learned counsel for the appellant-Insurance Company submits that the FIR No. 60, dated 07.11.2019, was registered against an unknown vehicle and unknown driver, which clearly indicates that the offending vehicle was not involved in the accident in question and rather, it was a hit & run case. Learned counsel submits that the

claimants in collusion with the owner and driver of the offending vehicle had falsely involved the offending vehicle in the accident in question. He further submits that the presence of the eye-witness i.e. Veer Bhan who also happened to be nephew of the deceased was highly suspect. The version given by him during his deposition before the Tribunal that he had chased the offending vehicle after accident in question did not inspire confidence and raised a big question mark qua his presence, more so, when admittedly the FIR in question was lodged against an unknown vehicle and unknown driver. A prayer was, therefore, made that in the aforementioned facts and circumstances, the Tribunal had erred in fastening the liability on the appellant-Insurance Company to pay the compensation amount to the claimants/respondents No.1 to 3.

5. I have heard learned counsel for the appellant-Insurance Company and perused the relevant material on record.

6. This Court does not find any merit in the submissions made by the learned counsel for the appellant-Insurance Company. It needs to be reiterated that standard of proof in claim petitions filed under the Motor Vehicles Act, cannot be kept at par with that of criminal cases where the prosecution has to prove its case beyond reasonable doubt. The MACT cases stand on a different footing, where the claimants are just required to prove their case on the touchstone of preponderance of probabilities, as has also been held by the Hon'ble Supreme Court in a plethora of cases. It is a matter of record that the driver of the offending vehicle is already facing trial in case FIR No. 60, dated 07.11.2019, which stands registered against him. Still further,

there is no reason to doubt the presence of PW-2/Veer Bhan, who is a witness of the accident in question. While stepping into the witness-box, this witness gave a vivid account of the date, time, place and manner of the accident in question. Though respondent No.4 (driver) pleaded false implication, however, he did not even enter appearance into the witness-box to deny the factum of the accident. In the circumstances, the involvement of the vehicle i.e. Swift Dzire Car bearing No. HR-34J-1380, which was being driven by none other than respondent No.4 (driver) stands proved.

7. As a sequel to the above, the impugned award passed by the learned Tribunal being well reasoned, does not warrant any interference by this Court. The appeal stands dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

April 28, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*