

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

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FAO-1822-2022 (O&M)

Decided on : 29.04.2022

United India Insurance Co. Ltd.

. . . Appellants

Versus

Sucha Singh and others

. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Harsh Aggarwal, 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 03.02.2022, passed by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal'), in the petition filed by the claimants/respondents No.1 to 5 under Section 166 of the Motor Vehicles Act, 1988, whereby, the compensation in the sum of Rs. 7,30,000/-, was awarded to the claimants/respondents No.1 to 5 i.e. husband and sons of the deceased Roshni Devi. The amount awarded by the Tribunal in the sum of Rs.7,30,000/- was assessed and granted as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.5000/-
2.	Future Prospects	--
3.	Total Income	Rs.5000/-
4.	Total Annual Income	5000 x 12 = Rs. 60,000/-
5.	Deduction	--
6.	Annual Dependency	Rs.60,000/-
7.	Multiplier	11

8.	Total Dependency	60000 x 11=Rs.6,60,000/-
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.7,30,000/-

2. Learned counsel for the appellant-Insurance Company has challenged the award passed by the Tribunal primarily on the issue of negligence on the part of the driver/respondent No.6 of the offending vehicle not being proved before the Tribunal. Learned counsel submits that the trial Court gravely erred while deciding issue No.1 i.e. whether deceased Roshni Devi had died in the accident in question on account of the rash and negligent driving of the driver of the bus bearing registration No. PB-03-AC-0996.

3. It has been submitted that the Tribunal failed to appreciate and rather ignored that there was no independent witness examined by the respondents/claimants to prove the negligence on the part of the driver of the offending vehicle. Learned counsel has further submitted that PW-2/ Sucha Singh, was on the face of it a planted and interested witness being the husband of the deceased. Further more, it has been submitted that soon after the accident in question PW-2/Sucha Singh while getting the DDR No. 20, dated 07.10.2019 (Ex.P1) recorded, had exonerated the driver of the offending vehicle by stating that the accident in question had taken place suddenly and no one was at fault. Learned counsel submits that in fact the accident in question was a result of 'Vis Major', as the deceased herself had been negligent and had not exercised caution while sitting in the bus. Learned counsel submits that while stepping into the witness-box PW-2/Sucha Singh, however, came up with an altogether different version by

holding the driver of the offending bus responsible for the accident in question in which his wife lost her life.

4. Learned counsel submits that in view of the contradictory statements made by PW-2/Sucha Singh, the instant appeal deserved to be allowed and in fact, this PW-2/Sucha Singh, was liable to be proceeded against for perjury. Besides the aforementioned, learned counsel has challenged the compensation awarded to the respondents/claimants by urging that it was highly exorbitant and thus required to be re-assessed and scaled down. In support of his submissions, learned counsel has placed reliance upon a plethora of judgements rendered by this Court in *Shri Ram General Insurance Company Limited Vs. Jeeto Devi and others*, 2020(2) RCR(C) 249; *The Oriental Insurance Co. Ltd. Vs. Kamla and others*, 2016(1) LAR 635; *Jyoti Ram Vs. Ashok Bansal and others*, 2011(4) PLR 661; *United India Insurance Company Limited Vs. Kamla Devi and others*, 2010(4) PLR 235; *FAO-2836-2022 (O&M)*, titled as, “*Manjit Kaur and others Vs. Oriental Insurance Co. Ltd. And another*”, DOD 30.01.2015; *FAO-2325-2019*, titled as, “*Pawan Garg Vs. Balraj Singh and others*”, DOD 17.10.2014 and *FAO-1088-2021*, titled as, “*Parveen Kumar Vs. Munish Mahajan and another*”, DOD 26.03.2014.

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

6. At the outset, it needs to be reiterated that MACT cases stand on a different footing and cannot be kept at par with the criminal cases. In MACT cases, the claimants are required to prove their case on the touchstone of preponderance of probabilities while in criminal cases, the case of the prosecution is to be proved beyond reasonable doubt. Adverting

to the case in hand, learned counsel for the appellant-Insurance Company has laid a great deal of stress on the DDR, which had been recorded by PW-2/Sucha Singh, soon after the accident in question. It cannot be overemphasized that DDR or even First Information Report (FIR) is not a substantive piece of evidence. Any statement made by a person, including the DDR, recorded before the police is not on oath and as such, it cannot be kept at the same pedestal as the deposition made by a witness before a Court of law. Further more, on the one hand, it is the case of the appellant-Insurance Company that PW-2/Sucha Singh was a planted witness and was not present when the occurrence in question took place, however, in the same breath, learned counsel while placing reliance upon the DDR recorded by PW-2/Sucha Singh, is trying to demolish the case of the claimants by urging that he had stated therein that the accident in question had happened suddenly and thus no one was at fault.

7. It would be relevant to point out here that PW-2/Sucha Singh, while stepping into the witness-box gave a vivid account of the accident in question. He was subjected to lengthy cross-examination, however, he stood his ground and the respondents were unable to create any dent in his testimony.

Consequently, the present appeal being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

April 29, 2022
J.Ram

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