FAO No.3113 of 2022 and connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Reserved on 15.07.2022.
Date of Decision : 21.07.2022

1. FAO No.3113 of 2022 (O&M)

Oriental Insurance Co. Ltd. ...Appellant

versus

Sharda and Others ...Respondents

2. FAO No.3114 of 2022 (O&M)

Oriental Insurance Co. Ltd. ...Appellant

versus

Sharda and Others ...Respondents

3. FAO No.3116 of 2022 (O&M)

Oriental Insurance Co. Ltd. ...Appellant

versus

Kamla and Others ...Respondents

4. FAO No.3119 of 2022 (O&M)

Oriental Insurance Co. Ltd. ...Appellant

versus

Sharda and Others ...Respondents

5. FAO No.3122 of 2022 (O&M)

Oriental Insurance Co. Ltd. ...Appellant

versus

Sharda and others ...Respondents

FAO No.3113 of 2022 and connected cases

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ram Avtar, Advocate
for the appellant-Insurance Company in all the appeals.

Mr. Sanjiv Gupta, Advocate
for the cavetor/respondent-claimants in all the appeals.

ALKA SARIN, J.

The present common order shall dispose off five appeals being FAO No.3113 of 2022 titled as *Oriental Insurance Co. Ltd. Versus Sharda* & Ors., FAO No.3114 of 2022 titled as *Oriental Insurance Co. Ltd. Versus Sharda & Ors.*, FAO No.3116 of 2022 titled as *Oriental Insurance Co. Ltd. Versus Kamla & Ors.*, FAO No.3119 of 2022 titled as *Oriental Insurance Co. Ltd. Versus Sharda & Ors.*, and FAO No.3122 of 2022 titled as *Oriental Insurance Co. Ltd. Versus Sharda & Ors.*.

The facts in FAO No.3113 of 2022 titled as "*Oriental Insurance Co. Ltd. Versus Sharda* & Ors.*"* are that the claimants filed a claim petition for grant of compensation to the tune of Rs.1,00,00,000/- (rupees one crore only) on the account of death of **Vikas** in a motor vehicular accident which took place on 30.06.2019 near village Sahuwala on GT Road, within the jurisdiction of Police Station, Baragudha, District Sirsa.

The facts in FAO No.3114 of 2022 titled as "*Oriental Insurance Co. Ltd. Versus Sharda* & Ors.*"* are that the claimants filed a claim petition for grant of compensation to the tune of Rs.50,00,000/- (rupees fifty lakh only) on the account of death of **Sheenu @ Deepika wife of Vikas** in a motor vehicular accident which took place on 30.06.2019 near village Sahuwala on GT Road, within the jurisdiction of Police Station, Baragudha, District Sirsa.

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The facts in FAO No.3116 of 2022 titled as "*Oriental Insurance Co. Ltd. Versus Kamla & Ors.*" are that the claimants filed a claim petition for grant of compensation to the tune of Rs.1,00,00,000/- (rupees one crore only) on the account of death of **Shilpa daughter of Sh. Bhim Sain** in a motor vehicular accident which took place on 30.06.2019 near village Sahuwala on GT Road, within the jurisdiction of Police Station, Baragudha, District Sirsa.

The facts in FAO No.3119 of 2022 titled as "*Oriental Insurance Co. Ltd. Versus Sharda & Ors.*" are that the claimants filed a claim petition for grant of compensation to the tune of Rs.30,00,000/- (rupees thirty lakh only) on the account of death of **Bhavya @ Bhumika daughter of Vikas** in a motor vehicular accident which took place on 30.06.2019 near village Sahuwala on GT Road, within the jurisdiction of Police Station, Baragudha, District Sirsa.

The facts in FAO No.3122 of 2022 titled as "*Oriental Insurance Co. Ltd. Versus Sharda* & Ors.*"* are that the claimants filed a claim petition for grant of compensation to the tune of Rs.1,00,00,000/- (rupees one crore only) on the account of death of **Ghanshayam** in a motor vehicular accident which took place on 30.06.2019 near village Sahuwala on GT Road, within the jurisdiction of Police Station, Baragudha, District Sirsa.

The brief facts relevant to the present case are that on 30.06.2019 at about 10.30 PM, Vikas (since deceased) along with his wife (Sheenu @ Deepika), younger brother (Ghanshayam Das) and his newly married wife (Shilpa), and his daughter (Bhavya), was coming back after performing 'Pag Phera' ceremony at Fatehabad, for Dabwali, in their car bearing registration No.HR-25C-1901, which was being driven by Vikas.

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The said car driven by Vikas was being trailed by one Sunil Kumar. The car was being driven by the deceased at a moderate speed and when the car reached one and a half kms ahead of village Sahuwala, a trolla bearing registration No.RJ-31GA-1877, which was being driven in a rash and negligent manner, was going ahead of the car being driven by the deceased. When the deceased indicated for over-taking the trolla and was in the process of over-taking, the truck-trolla driver turned the trolla towards the right side as a result of which the car being driven by the deceased Vikas struck against the trolla. The driver of the trolla fled from the spot. In the accident, Bhavya, Shilpa and Sheenu died at the spot, whereas Vikas and Ghanshayam died on reaching the hospital.

Upon notice, the respondents appeared and filed their reply. On merits the factum of the accident was refuted. A separate written statement was filed by the appellant-Insurance Company. On the basis of the pleadings of the parties and the evidence led, the Tribunal vide award dated 24.03.2022 awarded compensation in following terms :

1. In FAO-3113-2022, with respect to death of **Vikas**, the claimants were held entitled to compensation of Rs.31,69,500/- alongwith interest at the rate of 6.5% per annum of date from the filing of claim petition, till realization. The amount after realization be distributed between Nos.1 and 2 in the ratio of 10% & 90%, respectively;
2. In FAO-3114-2022, with respect to death of **Sheenu @ Deepika wife of Vikas**, the claimants were held entitled to compensation of Rs.36,54,000/- along with interest at the

rate of 6.5% per annum of date from the filing of the claim petition, till realization. The amount after realization be distributed between Nos.1 and 2 in the ratio of 10% & 90%, respectively.

3. In FAO-3116-2022, with respect of death of **Shilpa wife of Ghanshyam**, the claimants were held entitled to compensation of Rs.13,34,000/- alongwith interest at the rate of 6.5% per annum of date from the filing of the claim petition, till realization. The amount after realization be distributed between Nos.1 and 2 in the ratio of 80% and 20%, respectively;
4. In FAO-3119-2022, with respect to death of **Bhavya alias Bhumika daughter of Vikas**, the claimants were held entitled to compensation of Rs.5,00,000/- along with interest at the rate of 6.5% per annum of date from the filing of petition, till realization. The amount after realization be distributed between Nos.1 and 2 in the ratio of 20% and 80%, respectively.
5. In FAO-3122-2022, with respect to death of **Ghanshyam**, the claimant-Sharda is entitled to compensation of Rs.37,32,400/- alongwith interest at the rate of 6.5% per annum of date from the filing of petition, till realization.

Aggrieved by the said award, the present appeals have been preferred by the Insurance company.

Learned counsel for the appellant-Insurance Company would contend that the income of the deceased has been assessed on the basis of the income tax returns produced. However, none came forward from the Income Tax Department to prove the said returns. It has further been contended that the driving licence of the driver was fake and hence the appellant-Insurance Company could not have been held liable.

Per contra, the learned counsel appearing on behalf of the caveator-claimants has relied upon the judgment passed by the Supreme Court in the case of **Malarvizhi & Ors. Vs. United India Insurance Company Limited & Anr. [2020(1) RCR (Civil) 488]**, wherein it has been held that income tax return is a statutory document which can be relied upon to determine the annual income of the deceased. Further reliance has been placed upon a judgment of this Court passed in case of **Baljit Kaur & Ors. vs. Bhagwan Singh & Ors. [FAO No.4898 of 2011 decided on 25.07.2014]** to contend that the procedure under the Motor Vehicles Act, 1988 is a summary procedure and unless there is a gross doubt about the economic status of the person and there is a doubt expressed about the nature of business which the deceased was carrying, production of the income tax return would be treated as appropriate evidence for assessment of income.

Heard.

Adverting to the first argument raised by learned counsel for the appellant-Insurance Company that the income of the deceased was assessed on the basis of the income tax return without any official from the Income Tax Department having been produced, the said contention is erroneous and deserves to be rejected. The income tax returns were produced on the record by the claimants and no doubt qua the authenticity of the same was raised by the appellant-Insurance Company. In the case of **Baljit Kaur & Ors. vs.**

Bhagwan Singh & Ors. [FAO No.4898 of 2011 decided on 25.07.2014] it was held as under :

> "*……….The Tribunal did not give exhibit number for them since an authority from the Income Tax Department has not been examined to vouch for the authenticity of the documents. It must be remembered that Section 169 of the Motor Vehicle Act sets out a summary procedure and provisions of the Evidence Act are not necessary to be applied. Unless there is a gross doubt about the economic status of the persons and there is also doubt expressed about the nature of business which the deceased was carrying on, the production of an acknowledgment of filing of income returns from the Income Tax Department with the seals of the Income Tax Officer, they shall be taken as appropriate evidence for assessment of income status of the deceased…….*"

The proceedings before the Tribunal are summary in nature and do not admit strict principles of law of evidence to be applied. Considering the scheme of the Act, which is a beneficial piece of legislation, the income tax returns produced by the claimants ought not to be rejected merely because they have not been proved by some official from the Income Tax Department unless some serious doubts are raised qua the authenticity of the same. In the present case the counsel for the appellant-Insurance Company has not raised any argument about the authenticity of the income tax returns produced but only questioned the mode of proof. As such, this

Court finds no reason not to accept the income calculation of the deceased as adopted by the Tribunal.

The second limb of argument by the learned counsel for the appellant-Insurance Company that the driving licence of the driver was fake also deserves to be rejected on the ground that the witnesses produced by the appellant-Insurance Company specifically stated that in the year 1999 the driving licences were prepared manually and they had not brought the manual record of the year 1999. On a pointed query by the Court as to when the records were computerized, the learned counsel for the appellant-Insurance Company stated that the records from 2012 had been computerized. Once the record itself pertaining the year 1999 was not brought forward, it cannot be held that the driving licence was fake. The driving licence was originally issued from Fazilka in the year 1999 and was thereafter renewed from time to time from District Ferozepur. The appellant-Insurance Company had not summoned that renewal record from the Licencing Authority of District Ferozepur. That being so, without there being any cogent evidence on record to prove that the licence was fake, this argument of the learned counsel for the appellant-Insurance Company also deserves to be rejected.

In view of the above, I do not find any illegality or infirmity in the award passed by the Tribunal. The afore-numbered five appeals are accordingly dismissed. Pending applications, if any, also stand disposed off.

21 July, 2022 **(ALKA SARIN)**
tripti **JUDGE**

Whether speaking/non-speaking : Speaking
Whether Reportable : Yes/No