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

**FAO-3874-2022 (O&M)
Date of Decision:15.09.2022**

SHRIRAM GENERAL INSURANCE CO LTD

.. Appellant

Vs.

PARAMJIT SINGH AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sanjeev Kodan, Advocate for the appellant.

...

Manoj Bajaj, J. (Oral)

CM-11902-CII-2022

This application under Section 5 Limitation Act, 1963 has been filed for condonation of delay of 459 days in filing the appeal.

Heard.

For the reasons mentioned in the application, the same is allowed and delay of 459 days in filing the appeal is condoned.

FAO-3874-2022 (O&M)

Appellant-Insurance Company has filed this appeal to challenge the award dated 22.02.2019 passed in MACT/29/2017, by the Motor Accident Claims Tribunal, Tarn Taran, whereby the claim petition filed by the respondents/claimants No.1 to 5 relating to death of victim, namely, Ravi Karan Singh in vehicular accident was accepted and compensation of Rs.20,44,400/- along with interest @ 6% p.a. was awarded.

Briefly, the facts of the case are that on 26.08.2016 at about

3:00 pm, Ravi Karan Singh (deceased) along with one Gurlal Singh were

travelling by motorcycle bearing registration No. PB-46-R-5267 from Tarn Taran to Village Nathu Chak after attending IELTS classes and were being followed by one Jagir Singh on his motorcycle bearing registration No. PB46-Q-7722. When they reached ahead of the petrol pump of Village Lauhka, an Innova car bearing registration No. PB-30-K-9546 came from the opposite side on high speed, being driven in a rash and negligent manner. The vehicle, without blowing horn, collided with the motorcycle on which the victim was travelling. Ravi Karan Singh and Gurlal Singh received multiple injuries on their head and legs. After the accident, Jagir Singh got the injured admitted in the hospital, but Ravi Karan Singh succumbed to the injuries at Civil Hospital, Tarn Taran. The Innova car was also damaged due to the accident and in this regard, a case FIR No.70 dated 26.08.2016 under Sections 304A, 297, 337, 338 and 427 IPC was registered at P.S. Sadar Patti against respondent No.1 at the instance of Jagir Singh.

The claimants brought the claim petition to seek compensation against Vicky (owner and driver of the offending vehicle) and the appellant/insurance company and claimed compensation of Rs.50,00,000/-.

The claim was contested by Vicky-respondent No.1 (owner/driver of the offending vehicle), by filing his written statement, wherein he denied the accident and further pleaded that as the vehicle was insured by respondent No.2, he is not liable to pay compensation.

Respondent No.2/insurance company was proceeded against *ex parte*.

The Tribunal, after considering the pleadings, framed four issues and thereafter, the parties adduced their respective evidence. Upon considering the pleadings and evidence on record, the Tribunal vide award

dated 22.02.2019 allowed the claim petition and awarded a compensation of Rs.20,44,400/- along with interest @ 6% p.a.

Learned counsel for the appellant has argued that as per claimants themselves, the victim was not earning anything when he unfortunately died in a vehicular accident on 26.08.2016 and the ld. Tribunal, while fixing his notional income, has assessed it on the higher side. Learned counsel has produced the copy of the notification relating to the minimum rates of wages w.e.f. 01.03.2017, to contend that as per it, the minimum wages of semi skilled worker were fixed as Rs.7990.52/- p.m. w.e.f. 01.03.2016, whereas the Tribunal has assessed it as Rs.9,000/- p.m, which is in respect of the skilled worker. In this regard, he has placed reliance upon the decision passed by Hon'ble the Supreme Court in “*Kirti & Anr. Etc. Vs. Oriental Insurance Company Ltd, 2021 AIR (Supreme Court) 353*”. He submits that on this sole ground, the impugned award is being challenged, as the compensation awarded to the claimants is on higher side, therefore, interference is warranted by this Court.

After hearing learned counsel and considering the material on record, this Court does not find any merit in the argument advanced by the learned counsel for the appellant, because the assessment of notional income by the Motor Accident Claims Tribunal may depend upon various factors like guess work, guidelines by higher Courts or other attending circumstances. Thus, such a figure cannot be determined with precision or accuracy, particularly when the insurance company has chosen not to contest the claim, much less by leading any evidence relating to the material issues. A reading of the notification relied upon by the learned counsel would show that the monthly wages as on 01.09.2016 relating to semi

skilled worker stood fixed at Rs.8238.56/-, whereas for skilled worker, it was Rs.9135.56/-. In the present case, the victim died on 26.08.2016 i.e. few days before 01.09.2016, therefore, the notional income of Rs.9,000/- p.m. as assessed by Tribunal is just, fair and appropriate, in the light of the evidence on record. Respondent No.1 had adduced in evidence, the copy of the insurance policy as Ex. D-1 and considering the same, the Tribunal has fastened liability upon the insurance company. The citation relied upon by the learned counsel for the appellant would not be applicable in the present case.

Consequently, this Court has no hesitation in holding that the impugned award is based upon proper appreciation of evidence on record and does not call for interference.

No other argument has been raised.

Resultantly, the appeal fails and is dismissed.

15.09.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No