IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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FAO-4087-2012 (O&M)
Date of decision: 05.05.2022

United India Insurance Co. Ltd. .....Appellant

Versus

Kulwinder Kaur and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Paul S. Saini, Advocate
for the appellant.

Mr. Aman Dhir, Advocate as Amicus Curiae
for respondents No.1 to 4.

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MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been preferred by the Insurance Company against the award dated 01.05.2012, passed by the learned Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), whereby, compensation in the sum of Rs.1,00,000/-, was awarded to the respondents/claimants i.e. widow, daughter, sons and mother of deceased Nirvail Singh, who was stated to be 40 years of age at the time of the accident in question.

A few facts as pleaded in the claim petition by the respondents/claimants may be noticed. On 09.04.2010, deceased Nirvail Singh was going from Village Bhullar to his parents-in-laws' house at Village Mall Chack on motorcycle bearing No.PB-46-F-7842. Rajbir Kaur, daughter of the deceased was pillion riding on his motorcycle. Angrej Singh, brother of the deceased, was following the deceased on a separate motorcycle at a little distance. At about 03:00

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P.M., when they reached a little ahead of Village Bath, all of a sudden some cattle came in front of the motorcycle of the deceased. The deceased tried to avoid the cattle, however, in the process his motorcycle skidded. The deceased and his daughter fell down and received multiple injuries. The deceased was taken on Civil Hospital, Tarn Taran where he was declared brought dead. The Tribunal on the basis of evidence led by the parties, assessed and awarded compensation in the sum of Rs.1,00,000/- to the respondents/claimants.

Learned counsel for the appellant Insurance Company has challenged the amount awarded primarily on the following two grounds:-

(i) That the driver of the offending vehicle did not have a valid driving licence on the date of accident in question and it was in fact a forged and fabricated document.

(ii) That the claim petition has been filed under Section 163-A of the Act which provides for compensation to third parties against the owner or insurer of the motor vehicle involved in the accident. In the aforementioned facts and circumstances, the deceased being the insured owner and driver could not be described as a third party qua the vehicle in question.

Mr. Aman Dhir, Advocate, who has put in an appearance as Amicus Curiae on behalf of respondents No.1 to 4 has vehemently opposed the submissions made by the counsel opposite by urging that the findings recorded by the Tribunal were well reasoned which did not warrant any interference by this Court. It was submitted that the amount awarded as compensation was as per the statutory requirement of

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Section 163-A of the Act.

I have heard learned counsel for the parties and perused the relevant material on record.

This Court concurs with the findings recorded by the Tribunal that the claimants being legal heirs of the deceased would definitely be entitled to get compensation on account of coverage of risk of personal accident as the deceased had paid an extra premium on that count. The Hon'ble Supreme Court in ***Ramkhiladi and another Vs. United India Insurance Company and another : 2020(1) RCR (Civil) 638*** has also held that even as per the contract of insurance in case of personal accident the owner-driver shall be entitled to a sum of Rs.1,00,000/- which has rightly been awarded by the Tribunal.

As a sequel to the above, the instant appeal being devoid of any merit is dismissed.

05.05.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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