

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

431

FAO-2382-2013

Date of Decision: 06.09.2022

The Oriental Insurance Company Limited

..... Appellant

Versus

Seema Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr.Sanjiv Pabbi, Advocate
for the appellant.

None for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The appellant through instant appeal is seeking modification of award dated 16.01.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (for short 'Tribunal') and further seeking enhancement of compensation awarded by Learned Tribunal.

2. The brief facts emerging from the record are that on 18.12.2009, Raju (deceased) while driving three wheeler bearing registration No.CH-04-L-4773 met with an accident with car bearing registration No.CH-03-P-5218 driven by Jaspreet Singh s/o Avtar Singh, r/o village Rampur Kalan, Tehsil Rajpura, District Patiala. The dependants of deceased filed a claim petition before Tribunal. Vide order dated 16.01.2013, learned Tribunal has awarded a sum of Rs.8,85,656/- as compensation on account of death of Raju. The

compensation was awarded along with interest @ 6% per annum from the date of filing of claim petition till the amount is actually realised.

3. Learned counsel for the appellant contended that FIR was registered after delay of 5 days which was fatal to claim and creates doubt about the involvement of alleged car. The deceased was shifted by police to Government Medical College, Sector 32, Chandigarh, therefore, delay of 5 days in lodging FIR is unjustified. He further contended that 30% on account of future prospects has wrongly been made. The deceased was self employed and thus there was no chance of future prospects.

4. In spite of service, none has appeared on behalf of respondents. As matter is quite old and learned counsel for appellant is unable to convince the Court, I deem it appropriate to adjudicate present appeal without assistance of respondents.

5. Learned Tribunal has recorded categorical finding that claim cannot be rejected on the ground that FIR was lodged after 5 days especially when involvement of car in question and its driver has been proved by a witness whose statement does not suffer from any infirmity. Learned Tribunal has further returned the finding that acquittal in criminal case has no relevance and has no direct bearing on the merit of claim petition.

6. Learned counsel for the appellant expressed his inability to controvert findings of learned Tribunal qua delay of 5 days in registration of FIR. It is admitted fact that deceased was driving

three wheeler which met with an accident with the aforesaid car. Motor Vehicles Act, 1988 is a piece of beneficial legislation and our country is socialist and welfare State. The deceased was a driver of three wheeler and it cannot be expected from family members of a three wheeler driver that after death of their head of family, they are able to immediately approach the police. If there is minor delay of 5 days in registration of FIR, it cannot deprive them from their valuable right of compensation. Mere technicalities or procedural delay cannot deprive them from their valuable right of compensation.

7. Learned counsel for the appellant on being confronted with judgements of Hon'ble Supreme Court in **National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121** expressed his inability to controvert the findings of learned Tribunal qua future prospects of deceased.

8. In view of above findings, I do not find any ground to interfere in the order passed by learned Tribunal and accordingly, the appeal is dismissed.

(JAGMOHAN BANSAL)
JUDGE

06.09.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>