IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4725 of 2016
DATE OF DECISION :- December 15, 2022

United India Insurance Company Limited ...Appellant

Versus

Sudershana Rani and others ...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Suman Jain, Advocate for the appellant.

Mr. Shivender Pal, Advocate for
Mr. B.S. Bhalla, Advocate for the respondents.

***

Briefly stated the facts of the case are that on account of death of one Mohinder Singh, said to be working as Supervisor with M/s Parduman Singh and Company, near railway crossing Mukerian, District Hoshiarpur on 4.11.2014 at about 11. A.M, in the premises of statedly on account of rash and negligent driving of Tipper No. PB-07U-5377 by respondent No. 1 Raghunath, his legal representatives namely Smt. Sudershana Rani, wife, S/Sh. Naresh Singh and Suresh Kumar, major sons had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Raghunath, driver, M/s Parduman Singh and Company, Mukerian, owner, United India Insurance Company Limited, Dasuya, District Hoshiarpur, insurer of Tipper No. PB-07U-5377.

After contest that claim petition was accepted by Motor Accident Claims Tribunal, Hoshiarpur which vide Award dated 25.4.2016 had awarded compensation of Rs.14,21,000/- with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization payable by all the

PARVINDER SINGH
2022.12.22 15:20
I attest to the accuracy and
authenticity of this document

three respondents jointly and severally. While calculating the compensation the Tribunal took into view the fact that the deceased had date of birth 2.4.1956 as per certificate issued by Indian Army Ex.A6 and in the Post Mortem Report Ex. A2, his age was mentioned to be 58 years, therefore, his age was taken to be so. In terms of salary certificate produced by the claimants, though no official of the employer company had come forward to prove the same and considering that the deceased was getting pension to the tune of Rs.18,000/- per month, the monthly income of deceased was to taken to be 18,000/- per month. No future prospects were granted considering the age of the deceased.

However, respondent No. 3 Insurance Company felt aggrieved by the Award and has filed an appeal before this Court which is being contested by the claimants through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the appellant Insurance Company has contended that no F.I.R was registered with regard to the accident and Sohan Singh alleged eye witness of the accident had not in fact seen the occurrence as is evident from his cross examination. As such, it was not proved that the accident in which Mohinder Singh had lost his life, had been caused on account of rash and negligent driving of Tipper in question by respondent No. 1 Raghunath. Therefore, claimant is not entitled to any compensation.

Whereas these submissions are rebutted by learned counsel appearing for the respondents claimants.

After hearing the rival submissions, I find that the proceedings before the Motor Accident Claims Tribunal, Hoshiapur are summary in nature and strict rules of procedure are not applicable there. The burden of proof is not that heavy as it is in a criminal case. It is specific case of claimants that

PARVINDER SINGH
2022.12.22 15:20
I attest to the accuracy and
authenticity of this document

Raghunath was author of the accident by his rash and negligent driving of offending Tipper in which Mohinder Singh suffered injuries to which he had succumbed. They had examined AW3 Sohan Singh in that regard who categorically deposed so. Though he was cross examined at length but he stuck to his guns and could not be shattered on any point. However, I do not see any reason to discard his testimony, more particularly when the motive could be established prompting him to come forward to make a false statement in favour of the claimants and against the respondents. The claimants have tendered into evidence copy of DDR No. 22 dated 5.11.2014 Ex.A1 with regard to accident in question and a copy of Post Mortem Report of deceased Ex.A2.

It is to be noticed that neither respondent No. 1 Raghunath stepped into the witness box nor he was summoned by any other respondents to depose as a witness so as to state that he had not caused the accident by rash and negligent driving of the Tipper in question.

Therefore, the evidence adduced by the claimant has gone unrebutted. I do not see any reason to disbelieve such evidence, therefore, the claimants have successfully proved that the accident in which Mohinder Singh has lost his life has been caused by rash and negligent driving of respondent No. 1 Raghunath and the finding in that regard by learned Motor Accident Claims Tribunal, Hoshiarpur is affirmed.

Coming to the quantum part, the Tribunal has been extra cautious in taking pension drawn by deceased an Ex.Serviceman to his monthly income without taking into consideration the observation by the claimants that he was drawing Rs.15,000/- per month by working as Supervisor with M/s Parduman Singh and Company. The salary certificate issued by that Company was not taken into consideration by the Tribunal. The income so taken cannot be said to be on higher side. No future prospects were granted. Deduction of 1/3rd was

PARVINDER SINGH
2022.12.22 15:20
I attest to the accuracy and
authenticity of this document

rightly made towards personal and living expenses keeping in view the number of family members of deceased. Although a sum of Rs.1 lakh has been awarded to widow of the deceased on account of loss of consortium but keeping in view the latest judgment "***Magma General Insurance Co. Ltd. Versus Nanu Ram Alias Chuhru Ram and Others 2018(4) R.C.R. (Civil) 333***" each of the claimants is entitled to get compensation under that Head to the extent of Rs.40,000/-. Though funeral expenses granted by the Tribunal to the tune of Rs.25,000/- are some what on higher side because as per settled law those are to be granted to the tune of Rs.15,000/- but then the Tribunal has not granted any compensation under the Head loss of Estate, which to the tune of Rs.15,000/- are normally granted. In that way, excess of compensation if any granted under a particular Head is offset by non grant of compensation under head loss of Estate and loss of filial consortium.

I find the compensation awarded to be just and reasonable and not on higher side. Therefore, the Award is upheld. The appeal filed by the appellant Insurance Company lacks merits and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

December 15, 2022
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

PARVINDER SINGH
2022.12.22 15:20
I attest to the accuracy and
authenticity of this document