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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-8114-2014 (O&M)
Decided on : 07.07.2022

National Insurance Company Limited

... Appellant(s)

Versus

Sonika Sethi and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Rahul Pathania, Advocate for
Mr. R.C. Kapoor, Advocate
for the appellant-Insurance Company.

Mr. Ashwani Arora, Advocate
for respondents No.1 to 4.

Mr. Shailendra Sharma, Advocate
for respondent No.5.

MANJARI NEHRU KAUL, J. (Oral)

The instant appeal has been preferred by the Insurance Company against the award dated 05.05.2014, passed by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), in a petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein, the following compensation in the sum of Rs. 28,71,242/-, was awarded to claimants/respondents No.1 to 4 i.e. wife, two minors children and father of the deceased Harish Sethi, who died in a motor vehicular accident, which took place on 30.10.2009. The amount awarded by the Tribunal in the sum of Rs.28,71,242/- was assessed and granted as follows:-

Sr. No.	Head	Amount
1.	Income	Rs.1,62,550/- (per annum)
2.	Addition of 30%	Rs.2,16,734/-
3.	Net income after tax deduction	Rs.2,09,860/-

4.	Deduction (1/4 th)	Rs.52,465/-
5.	Annual Dependency	Rs.1,57,395/-
6.	Multiplier	14
7.	Total Dependency	Rs.157395 x 14 = Rs.22,03,530/-
8.	Funeral expenses	Rs.25,000/-
9.	Loss of consortium to wife	Rs.1,00,000/-
10.	Loss of consortium to children	Rs.1,00,000/-
11.	Expenditure incurred on medical treatment	Rs.3,07,712/-
12.	Special Diet	Rs.25,000/-
13.	Expenditure on transportation	Rs.10,000/-
14.	Expenditure on attendant	Rs.1,00,000/-
11.	Total Compensation	Rs.28,71,242/-

Learned counsel for the appellant-Insurance Company has primarily challenged the amount awarded on the ground that the involvement of the offending vehicle insured with it, in the accident in question, was highly suspect. Learned counsel for the appellant-Insurance Company submits that the accident in question occurred on 30th October, 2009 at about 11:00 A.M. when the deceased was riding his Kinetic Honda bearing registration No. CH-23-T-2828. Allegedly the offending vehicle bearing registration No. PB-65-G-1888 came from behind in a rash and negligent manner and collided with the vehicle of the deceased. Resultantly, the deceased fell down on the road and received serious injuries. The offending vehicle was stated to be driven by a female driver. Learned counsel submits that though it was claimed that the deceased was removed to the hospital in the offending vehicle, however, strangely, the FIR, which was registered under Sections 304-A, 279 of IPC, pursuant to the accident in question, was only after six months, which clearly indicated the false implication of the offending vehicle just to grab money. Learned

accident in question, nothing prevented the respondents/claimants from registering FIR promptly.

It was further submitted by the learned counsel for the appellant-Insurance Company that on the date and time of the accident in question, the offending vehicle was parked in Mohali, which fact was proved by three of its witnesses i.e. RW-1 Debashish Pradhan, RW-4 Mukesh Malik and RW-5 Purna Chander Pradhan. Not only this, the deceased who died after some time of the accident was himself unsure about the registration number of the offending vehicle, as he only stated that Car No. PB-1888 had caused the accident, which fact stood reflected in the FIR (Ex.P-82) also, whereas, the registration number of the offending vehicle was 'PB-65-G-1888'. Learned counsel submits that the false implication of the offending vehicle in question further found credence from the fact that the police not only filed a cancellation report in the FIR, registered after the accident in question, but said cancellation report was also accepted by the trial Court.

Per contra learned counsel appearing for the respondents/claimants has vehemently opposed the prayer and submissions made by the counsel opposite by urging that no doubt a cancellation report was indeed submitted by the investigating agency in FIR (Ex.P-82) and also accepted by the trial Court, however, the criminal proceedings stand on an altogether different footing. While drawing the attention of this Court to the testimony of eye-witness PW-3 Inderjeet Singh, learned counsel submits that he gave a vivid account of the manner in which the offending vehicle, came in a rash and negligent manner driven by its driver, and hit the deceased, who then fell down on the road, as a result of which, he received

serious and multiple injuries on his person, which ultimately proved fatal for him. Learned counsel further submits that there was enough medical evidence led that on account of the serious injuries suffered on his cervical spine in the accident in question, deceased had suffered 100% disability. The deceased remained in ICU and was put on mechanical ventilator support immediately before his death on account of the complications arising from the injuries suffered in the accident.

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

This Court has no hesitation in holding that the instant appeal is devoid of any merit. This Court concurs with the submissions made by the learned counsel for the claimants/respondents that proceedings under the Motor Vehicle Act cannot be equated with criminal proceedings and the standard of proof in a civil case is different from that of criminal proceedings. The standard of proof required in a civil case is based on preponderance of probabilities, whereas, in criminal cases, a heavy onus is cast on the prosecution to establish its case beyond shadow of reasonable doubt. The alleged delay in the registration of the FIR cannot be a cogent enough reason to view the involvement of the offending vehicle with suspicion. The registration number of the offending vehicle is PB-65-G-1888. It has come in evidence and also finds reflected in the FIR that the deceased said that the registration number of the vehicle was PB-1888. It is a matter of record that the deceased had indeed suffered injuries in the accident and in the circumstances, it could not be expected of an injured to remember the complete registration number of the offending vehicle. The very fact that the deceased did spell out part of the registration number of

the offending vehicle i.e. PB-1888 in addition to the testimony of eye-witness i.e. PW-3 - Inderjeet Singh, who categorically deposed about the involvement of the offending vehicle in the accident in question, goes a long-way to prove that the deceased was not only hit by the offending vehicle but the injuries suffered by him as a result thereof, led to his death.

The challenge of the appellant-Insurance Company that the compensation awarded by the Tribunal is on the higher side and not in consonance with the settled law too, is devoid of any merit. The compensation awarded by the Tribunal is perfectly just and in consonance with the the settled law. No interference is thus warranted in the said regard.

Consequently, the instant appeal fails and stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 07, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*