

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

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FAO-6561-2016 (O&M)
Date of decision: 05.12.2022

National Insurance Company LimitedAppellant

Versus

Ajay and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.P. Arora, Advocate for the appellant.

Mr. Ashok Kumar Sharma, Advocate
for respondents No.1 and 2.

MANJARI NEHRU KAUL, J. (ORAL)

CM-22427-CII-2016

For the reasons mentioned in the application, the same is allowed and delay of 99 days in filing the appeal is condoned.

FAO-6561-2016 (O&M)

The insurance company is in appeal before this Court to impugn the award dated 07.04.2016 passed by learned Motor Accidents Claims Tribunal, Jind (for short, 'the Tribunal') wherein the following compensation was awarded to the respondents/claimants on account of death of their mother Roshni (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 15.03.2013:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.3,000/-
2.	Annual Income	Rs.36,000/-
3.	Deduction towards personal expenses (1/3 rd)	Rs.12,000/-
4.	Dependency	Rs.24,000/-
5.	Compensation after applying multiplier of '17'	Rs.4,08,000/-
6.	Funeral expenses	Rs.2,000/-
7.	Loss of estate	Rs.2,500/-
	Total Compensation	Rs.5,12,500/-

As per the pleaded case of the claimants (sons of the deceased) in their claim petition filed un Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), the deceased was pillion riding behind their father on motorcycle Hero Honda Splendor No.HR-12L-7238 and returning from village Bahari, when the accident in question took place. It was stated that the tyre of the motorcycle went into a pit and as a result of which the accident in question occurred. On account of the accident, the deceased received injuries and was admitted to the hospital at PGIMS, Rohtak where she ultimately died on 25.03.2013.

Learned counsel appearing for the appellant insurance company has vehemently argued that not only there was a big question mark as to whether the accident in question had even occurred with the motorcycle in question and still further there being a collusion between respondents/claimants with respondent No.3 i.e. owner of the offending motorcycle was apparent. It was still further submitted that there had been a clear violation of the terms and conditions of the insurance policy as the driver of the offending motorcycle was not holding a valid and effective driving licence at the time of accident in question. Lastly it was urged that the income of the deceased assessed by the Tribunal was exorbitant and deserved to be scaled down.

Learned counsel for respondents No.1 and 2 while controverting the submissions made by the counsel opposite has vehemently submitted that the award being in consonance with the settled law, warrants no interference and thus made a prayer for dismissal of the instant appeal.

I have heard learned counsel and perused the relevant

material on record.

No doubt, it was vehemently urged by the learned counsel for the appellant that the involvement of the offending motorcycle in the accident in question was highly suspect, however, other than their bald assertions of denial, no cogent evidence was led by the insurance company qua the same. It would not be remiss to mention that soon after the accident in question DDR (Ex.P4) was recorded at the instance of Ved Parkash i.e. husband of the deceased who was riding the motorcycle, and the registration No.HR-12L-7238 of the offending motorcycle was also mentioned therein. Though initially the number mentioned was HR-12C-7238 instead of HR-12L-7238, however, it was an apparent bonafide typographical error. As soon as the error came to light, an application for amendment was moved and the necessary corrections carried out in the earlier claim petition filed for compensation under the Act.

Since the claim petition was filed under Section 163-A of the Act, the claimants were not required to prove rash and negligent driving of the driver of the offending motorcycle. Enough cogent and convincing evidence already stands adduced qua the involvement of the offending motorcycle in the accident in question, which is the sole requirement in a claim petition filed under Section 163-A of the Act.

Coming to the next submission of the learned counsel of the appellant qua income of the deceased having been assessed on the higher side i.e. Rs.3,000/- per month, it too merits rejection. The Tribunal has awarded the compensation as per the structured formula, which is in consonance with the settled ratio of law.

Resultantly, the instant appeal being devoid of any merit is dismissed.

05.12.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No