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

**FAO No.2912 of 2017 (O&M)**

Date of decision: 25th March, 2022

The New India Assurance Co. Ltd.

… Appellant

Versus

Vidya Bai & others

… Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Pradeep Kumar, Advocate for the appellant.

Mr. Ashwani Arora, Advocate for respondents No.1 & 2.

Mr. Gurmeet S. Saini, Advocate for respondent No.3.

**FATEH DEEP SINGH, J.**

The Court of learned Motor Accident Claims Tribunal, Chandigarh by impugned Award dated 07.12.2016 allowed the claim petition under Section 166 of the Motor Vehicles Act, 1988 preferred by the claimants Vidya Bai and Dial Singh alias Dayal Singh, the unfortunate parents of deceased Swaran Singh alias Swarn who died in a motor vehicular accident on 25.06.2015 around 5:00 p.m. The Tribunal had awarded total amount of ₹12,73,000/- along with interest @ 7.5 % per annum from the date of filing of petition till realization of the amount.

Aggrieved over these findings, the insurance company came up before this Court in the instant appeal.

Upon hearing Mr. Pradeep Kumar, Advocate for the appellant/insurance company; Mr. Ashwani Arora, Advocate for respondents No.1 & 2; Mr. Gurmeet S. Saini, Advocate for respondent No.3 and perusal of the records.

Admittedly, there is nothing to refute the factum that an accident took place between the motorcycle of the deceased and the offending car bearing registration No.PB-22D-7299 which came at a very high speed being driven rashly and negligently and while overtaking the motorcycle hit it resulting in death of the deceased. It is also not displaced that respondent No.3 Sharanjeet Singh was driving the offending car and is also owner of the same which is insured with the present appellant The New India Assurance Company Limited.

Appreciating the submissions of learned counsel for the respondents, it is well established from the school certificate Ex.P6 that the deceased at the time of accident was aged around 27 years. His accidental death arising out of the motor vehicular accident is well established from the post-mortem report Ex.P2 coupled with the eye-witness account of PW1 Mangat Singh, an eye-witness of this accident, leaves no scope to doubt as to the death being accidental and the presence of the offending vehicle is also not displaced in any manner and so is the factum that the vehicle at the time of accident was under insurance cover of the appellant Company.

Though much arguments have been sought to be raised on behalf of the appellant by Mr.Pradeep Kumar, Advocate that there is no element of rash and negligent driving proved on the record and that there is no FIR of the accident, are matters which does not impress the Court much just on account of the fact that motor accident claim cases are summary in nature where stricter principles of Evidence Act are not to be applied and further that a mere registration of DDR cannot be construed to be not corroborative of this accident and registration of FIR is not a mandate of law, and therefore, these arguments of the counsel certainly pale into insignificance.

It is the case of the claimants that the deceased was a vegetable vendor and was earning ₹ 20,000/- per month however, as has been contended by counsel for the appellant there is nothing substantial to establish his earnings and income from this avocation. The Tribunal in the light of the same, has assessed earnings on the basis of collector rate for a young person working as a labourer and has rightly taken the earnings to be ₹ 7,500/- per month. Keeping in view that the deceased was a bachelor had though deducted more than permissible deduction to the extent of ½ of his earnings but the same has not been put to challenge by the claimants and therefore, the Tribunal has arrived at the annual income to be ₹ 45,000/- and has rightly applied multiplier of 17 in view of the law laid down in **'Sarla Verma & others vs. Delhi Transport**

**Corporation and another' 2009 (3) RCR (Civil) 77.** To the specific query of the Court, Mr. Pradeep Kumar, learned counsel for the appellant could not convince how the deduction, the multiplier or the calculations of earnings of a bachelor deceased were on the wrong side. Rather what one can decipher is that the learned Tribunal has given well reasoned calculations taking into consideration all the aspects of the case on account of loss of love and affection, funeral expenses etc. and therefore, has come to a totally justifiable conclusion of awarding compensation to the tune of ₹ 12,73,000/- rather the interest component which has been granted to the tune of 7.5% p.a. is on the lower side but the same has also not been challenged by the claimants. In view thereof, findings on issues No.1 and 2 are in consonance with the evidence on record and needs to be upheld. No arguments on issue No.3 have come about nor any evidence has been brought on the record and rather the driving license of the owner/driver Ex.R7 has never been shown to be not effective and valid one, and the own admission of the insurance Company that at the time of accident, the vehicle in question was fully insured and therefore, the insurer is jointly and severally liable to pay the compensation amount.

In the light of what has been detailed and discussed above, this Court does not find any illegality or infirmity in the findings of learned Tribunal and which findings need to be upheld. However, it is made clear that since both claimants are aged parents and by now must have become senior citizens, necessitates that the amount of compensation so awarded by the Tribunal to be deposited in the FDR, be released as per rules upon proper identification. There being no merit in the instant appeal, the same stands dismissed.

**(FATEH DEEP SINGH)**
**JUDGE**

**March 25, 2022**
*rps*

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| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |