

113

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5579-2022 (O&M)
DATE OF ORDER: 23.12.2022

Oriental Insurance Company Ltd.Appellant

Vs.

Sudesh Kumari and OthersRespondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. H.P.S. Kochhar, Advocate for the appellant.

Nidhi Gupta, J.

CM-18480-CII-2022

For the reasons stated in the application, cause shown is sufficient. Delay of 43 days in refilling of present appeal is condoned.

CM-18482-CII-2022

For the reasons stated in the application, the same is allowed, and exemption is granted from filing certified copies of P1 and P2.

Main Case

This is an appeal filed on behalf of Insurance Company against Award dated 01.07.2022 passed by Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as "the Tribunal") in MACP Case No.37 of 2021 whereby a total compensation of Rs.19,10,000/- has been awarded to the claimants/respondents No.1 to 4 herein along with interest at the rate of 7.5% per annum from the date of filing the claim petition till its realization. Learned Tribunal awarded compensation as

above on account of death of Sarabjit Saini. Claimants are the mother, widow and two minor daughters of the deceased-Sarabjit Saini.

Learned Tribunal on the basis of material placed before it held that the deceased had died due to injuries suffered by him in an accident that took place on 08.07.2021 due to rash and negligent driving of truck bearing registration No.PB-65-AH-9799 being driven by respondent No.5 herein. Learned Tribunal further held the appellant as well as driver and owner of the offending vehicle liable to pay compensation jointly and severally.

Learned counsel for the appellant assails the Award on the singular ground that age of the deceased has been taken as 38 years on basis of Exhibit A1 post-mortem report. It is submitted that the learned Tribunal was in error in applying multiplier of 15 by taking age of the deceased as 38 years on basis of Exhibit A1 post-mortem report of the deceased as, as per Exhibit R7 PAN card and Exhibit R8 Aadhaar verification certificate, date of birth of the deceased has been shown as 17.06.1981, and therefore, age of the deceased should have been taken as more than 40 years, as he was 40 years and 21 days old on date of accident on 8.7.2021.

I have heard learned counsel for the appellant.

There is no merit in the argument raised on behalf of the appellant as, even if age of the deceased is taken to be 40 years and 21 days, multiplier of 15 only would be applicable, which is in conformity with the judgments of the Hon'ble Supreme Court in **National Insurance**

Company Limited v Pranay Sethi and others (2017) 16 SCC 680; and Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104. It is only for 41 and above years of age that multiplier of 14 is applicable. Admittedly, deceased had not yet attained the age of 41 years.

No other ground has been raised on behalf of the appellant.

As such, I find no merit in this appeal and the same is hereby dismissed. Pending application(s) if any stand(s) disposed of.

23.12.2022
Sunena

(Nidhi Gupta)
Judge

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