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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4540 of 2022 (O&M)
Date of decision: 28.10.2022

United India Insurance Company Limited

....Appellant

Versus

Sarita Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

Mr. Ashit Malik Aggarwal, Advocate
for the respondents No.1 to 4/caveators.

ARVIND SINGH SANGWAN J. (Oral)

Challenge in this appeal is to the award dated 02.07.2022
vide which the claim petition filed by the respondents/claimants under
Section 166 of the Motor Vehicles Act, 1988 was allowed and the
amount of compensation has been awarded in the following manner:-

Sr. No.	Heads of Claim	Amount (in Rs.)
1	Annual income	10,870 x 12 = 1,30,440
2	Income Tax	NIL
3	Net annual income	1,30,440
4	Deduction towards personal expenses 1/4th	1/4th of 1,30,440 = 32,610
5	Annual loss of dependency	1,30,440 – 32610 = 97,830
6	Multiplier	17
7	Net loss of dependency	97,830 x 17 = 16,63,110
8	Future prospectus (40%)	6,65,244
9	Total loss of dependence	16,63,110 + 6,65,244 = 23,28,354

10	Loss of spousal consortium	40,000
11	Loss of Estate	15,000
12	Funeral charges	15,000
13	Transportation charges	5,000
	Total	23,35,854
	Rounded off.	23,35,850

Counsel for the appellant/insurance company has challenged the finding of Issue No.1 with regard to the finding that the involvement of the vehicle bearing registration No.PB65-AQ-6000, is proved.

Counsel for the appellant has argued that the Tribunal has not taken into consideration the fact that there is no direct evidence that the accident was caused due to rash and negligent driving of the respondent No.1 Jagwinder Singh/driver of Tipper No.PB65-AQ-6000. It is further submitted that the FIR was registered against an unknown person by the father of the deceased by stating that he has received a call from a co-worker regarding the accident and therefore, the father of the deceased was not an eye-witness. It is also submitted that the Tribunal has wrongly relied upon the statement of AW-2 Parminder Singh, who claimed himself to be an eye-witness of the accident as his name is not mentioned in the FIR.

Counsel for the appellant has referred to the statement of AW-2, to submit that there are certain discrepancies in his statement and therefore, the accident in question is not proved.

Counsel appearing for respondents No.1 to 4/caveators, on the other hand, has argued that the FIR was registered on the same day when the accident took place by giving the number of Tipper, which

was later on, found to be driven by respondent No.1 Jagwinder Singh. It is further submitted that the respondent No.1 has not contested the said FIR as challan has already been presented against him and even charges have been framed against respondent No.1 Jagwinder Singh who has never chosen to appear as a witness in the present case before the Tribunal to rebut the fact that the accident was not caused due to his rash and negligent driving of Tipper No.PB65-AQ-6000. It is also argued that the Tribunal has rightly awarded the compensation on the basis of the statement of AW-2 Parminder Singh, who was an eye-witness.

After hearing the counsel for the parties, I find no merit in the present appeal. A perusal of the statement of AW-2 Parminder Singh, which is reproduced in the grounds of appeal, would show that on behalf of respondent No.1 i.e. owner and driver of Tipper No.PB65-AQ-6000, a suggestion was given that he was not present at the spot but he has denied this fact and specifically stated that the accident was caused due to rash and negligent driving of the driver of Tipper No.PB65-AQ-6000. Further in his cross-examination by the respondent No.3 – Insurance Company (appellant herein), the testimony of this witness could not be shattered that he is not an eye-witness and rather he has deposed on line of the examination-in-chief that the accident was caused due to rash and negligent driving of respondent No.1. Nothing has come on record that against the FIR registered against respondent No.1, he has made any representation to the higher police officials or the Court alleging his false implication and rather the Tribunal has taken an adverse inference that in the absence of the driver of the

Tipper, there is no rebuttal to statement of AW2. Therefore, the finding recorded by the Tribunal on Issue No.1, requires no interference.

No other argument is raised.

Accordingly, the present appeal is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

28.10.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No