IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107

FAO-3285-2021 (O&M)
Date of decision: 19.07.2022

United India Insurance Company Limited .....Appellant

Versus

Shanti Devi and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. D.P. Gupta, Advocate
for the appellant.

Mr. Sunil Saharan, Advocate
for the caveators/respondents No.1 and 2.

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MANJARI NEHRU KAUL, J. (ORAL)

This is an appeal by the insurance company to impugn the compensation awarded by learned Motor Accidents Claims Tribunal, Hisar (for short, 'the Tribunal') to the respondent/claimant on account of the death of Yashwant Madan in a motor vehicular accident which took place on 17.04.2019 at about 09:30 P.M. while he was going to his house on his motorcycle.

The following compensation was awarded to claimant Shanti Devi who happens to be the grandmother of the deceased:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.24,371/-
2.	Future Prospects (40%)	Rs.9,784/-
3.	Monthly Income after adding future prospects	Rs.34,119/-
4.	Deduction towards personal expenses (1/2)	Rs.17,059.5/-
5.	Loss of monthly income claimant No.1	Rs.17,059.5/-

6.	Loss per annum	Rs.2,04,714/-
7.	Multiplier	18
9.	Loss of future earnings	Rs.36,84,852/-
10.	Loss of estate	Rs.15,000/-
11.	Funeral expenses	Rs.15,000/-
	Total compensation	Rs.37,14,852/-

Learned counsel for the appellant/insurance company has primarily challenged the impugned award on the ground that negligence was not proved on the part of the offending vehicle and the quantum of compensation awarded was exorbitant. Learned counsel submits that the alleged eye witness to the accident in question admitted during his cross-examination that he was well acquainted with the deceased for the past 10-15 years, however, it was strange that he did not even lodge any FIR with the police soon after the accident in question rather he made his statement before the police for the first time after 12 days of the accident. He further submits that FIR No.150 dated 18.04.2019 was registered on the statement of one Khushdayal, however, Khushdayal did not even step into the witness box. Hence, an adverse inference should have been drawn qua the same by the Tribunal which erroneously was not done. Learned counsel has further challenged the application of '18' as multiplier on the basis of age of the deceased, who was 20 years of age, on the date of accident. Learned counsel submits that the grandmother of the deceased was 88 years of age and keeping in view her advance age the multiplier of '18' was unreasonable.

Per contra, learned counsel while opposing the prayer and submissions made by the counsel opposite, learned counsel for the caveators/respondents No.1 and 2/claimants submits that the compensation awarded was perfectly justified and in consonance with the settled law in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*** which thus did not warrant any interference.

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

The submission made by the counsel for the appellant/insurance company is devoid of any merit. The delay as alleged by the learned counsel for the insurance company by Virender PW3 eye witness in getting his statement recorded before the police cannot in any way weaken the case of the claimant qua the negligence of the offending vehicle. There is no dispute that FIR No.150 was recorded promptly on the very next day against the driver of the offending vehicle. It is also a matter of record that the driver of the offending vehicle did face trial in the aforementioned case before the trial Court. No doubt, Khushdayal author of the FIR did not enter the witness box before the Tribunal but Virender, eye witness, did step into the witness box and gave a vivid account of the manner in which the accident in question took place, which led to the death of Yashwant Madan. The respondents were not able to create any dent in his testimony before the Tribunal. It may not be out of the context to observe here that standard of proof in claim petitions filed under the Motor Vehicles Act, cannot be equated with that of criminal cases. In criminal cases, the prosecution has to prove its case beyond reasonable doubt, whereas, in cases before the Motor Accidents Claims Tribunal, the claimants are only required to prove their case on the touchstone of preponderance of probabilities. Coming to the next contention of the counsel for the insurance company qua the 'exorbitant compensation' deserves to be rejected outright. The compensation has been awarded as per the ratio of law laid down in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333***. The multiplier applicable has to be as per the age of the deceased. The deceased admittedly was 20 years of age hence, the Tribunal was perfectly justified in applying the multiplier of '18'. The contention of the counsel for the insurance company that since the claimant was an 88 year old woman, the multiplier should have been applied keeping her advance age in mind is devoid of any merit. This Court thus does not find any error in the judgment and decree passed by the Tribunal.

Dismissed.

19.07.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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