

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

106

FAO-7166-2019 (O&M)
Date of decision: 25.07.2022

IFFCO-TOKIO General Insurance Company LimitedAppellant

Versus

Krishna and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Goyal, Advocate for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

The insurance company (insurer of the offending vehicle) is in appeal to challenge the award dated 22.08.2019 passed by learned Motor Accidents Claims Tribunal, Sonipat (for short, 'the Tribunal') wherein the following compensation was granted to respondents No.1 to 4/claimants on account of death of Joginder in a Motor Vehicular Accident which took place on 06.11.2016:-

Sr. No.	Head	Amount
1.	Monthly income	Rs.8,000/-
2.	Future prospects (40%)	Rs.3,200/-
3.	Loss of earnings (per month)	Rs.11,200/- (Rs.8,000 + Rs.3,200/-)
4.	Deduction towards personal expenses (1/3rd)	Rs.3,733/-
5.	Dependency of the claimants	Rs.7,467/- (Rs.11,200/- - Rs.3,733/-) (rounded off to Rs.7,470/-)
6.	Annual dependency	Rs.89,640/- (Rs.7,470/- x 12)
7.	Compensation after applying the multiplier of 18	Rs.16,13,520/-
8.	Loss of estate	Rs.15,000/-
9.	Loss of consortium	Rs.40,000/-
10.	Funeral expenses	Rs.15,000/-
	Total compensation	Rs.16,83,520/-

The insurance company was directed to deposit the amount of compensation directly in the accounts of the claimants.

It was claimed by the claimants in their claim petition filed under Section 166 of the Motor Vehicles Act, 1988 that when deceased Joginder along with one Ashish was riding his motorcycle bearing registration No.HR-60-A-5558, a canter bearing registration No.HR-69-B-2276 (hereinafter called as 'offending vehicle') came in a rash and negligent manner being driven by respondent No.5 herein and collided with the motorcycle of the deceased. Both the deceased Joginder Singh and Ashish fell down and sustained multiple grievous injuries over their body. While Ashish was declared brought dead by the doctors at the hospital, Joginder was referred to PGIMS Rohtak where he too succumbed to his injuries. FIR No.269 of 2016 under Sections 279, 337 and 304-A IPC was registered at Police Station Baroda. It was further claimed by respondents No.1 to 4/claimants who are mother, widow and two minor children of the deceased Joginder respectively that the deceased was 25 years of age, was working as an electrician in RM Layer Farm, RM Group Seenk, District Panipat and drawing a salary of Rs.20,000/- per month.

Learned counsel appearing for the insurance company has primarily challenged the impugned award on the ground that the involvement of the offending vehicle in the accident in question was highly suspect. Learned counsel submits that it was alleged to be a head on collision, however, as per the site plan Ex.R-15, the offending vehicle was shown to be on its correct left side from which it could be safely concluded that the accident had occurred on account of the

negligence of the deceased himself. He further submitted that the above fact should have been appreciated by the learned Tribunal in the light of the unexplained delay in the lodging of the FIR which clearly hinted towards the false implication of the offending vehicle in the accident in question. Secondly, the driver of the offending vehicle i.e. respondent No.5 herein was not holding a valid and effective driving licence to drive the offending vehicle at the time of accident in question and thus there was a violation of the terms and conditions of the insurance policy. A prayer was, therefore, made to set aside the impugned award vide which the entire liability had been fastened upon the insurance company to indemnify the insured (offending vehicle).

I have heard learned counsel and perused the impugned judgment and decree.

PW-3 Parveen (author of the FIR) and PW-4 Rohit (eye witness to the accident) while stepping into the witness box gave a vivid account of the manner in which the accident in question took place. The submission of the learned counsel that the offending vehicle had been falsely implicated in the accident in question in order to grab compensation deserves to be rejected in the wake of the credible testimony of PW-4 Rohit (eye witness) qua the manner of accident. The best witness to controvert and demolish the case of the claimants and particularly the testimony of PW-4 Rohit (eye witness) would have been respondent No.5 i.e. the driver of the offending vehicle himself but it is a matter of record that respondent No.5 did not even step into the witness box to rebut the allegations qua his role in the accident in question. In the circumstances, the Tribunal did not commit any error in

holding respondent No.5 herein responsible for rash and negligent driving leading to the death of Joginder. Moreover, it need not be reiterated 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, which they have successfully been able to do.

Learned counsel was unable to bring to the notice of this Court any cogent evidence led in support of the contention that respondent No.5-driver of the offending vehicle was not holding a valid and effective driving licence at the relevant time.

Upon being pointedly asked, learned counsel for the appellant failed to refer to anything on record to show that the conclusion arrived at by the Tribunal was either contrary to the record or suffered from any material illegality. The appeal, being devoid of merit, is accordingly dismissed.

25.07.2022
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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