IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

109 (2 cases)

(1) **FAO-653-2020 (O&M)**
Date of decision: 26.04.2022

Reliance General Insurance Company Ltd. .....Appellant

Versus

Pooja and others .....Respondents

(2) **FAO-1430-2020 (O&M)**
Date of decision: 26.04.2022

Reliance General Insurance Company Ltd. .....Appellant

Versus

Neelam Devi and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Subhash Goyal, Advocate for the appellant(s).

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MANJARI NEHRU KAUL, J. (ORAL)

CM-4250-CII-2020 in FAO-1430-2020

For the reasons mentioned in the application, the same is allowed and delay of 01 day in filing the appeal is condoned.

Main Cases

This order shall dispose of the above referred two appeals as both have arisen out of the same award and the accident.

Both the appeals have been preferred by the appellant-insurance company to impugn the award dated 10.09.2019 passed by learned Motor Accidents Claims Tribunal, Narnaul (for short, 'the Tribunal') in claim petitions filed under Section 166 of the Motor Vehicles Act, 1988 by the respondents.

The facts of the case are that on 22.04.2018, Krishan

Kumar along with Manoj Kumar, both deceased, was going in his car bearing registration No.HR-34H-8265 from Sehlang towards Mohindergarh. At about 07:00 P.M., when they were between village Bawana and Malda, a pick up van bearing registration No.HR-66A-2451 being driven by respondent No.5-Lalit Kumar in a rash and negligent manner came from Malda side and hit their car from the front. As a result, both Krishan Kumar and Manoj Kumar sustained multiple grievous injuries. Both Krishan Kumar and Manoj Kumar succumbed to their injuries lateron.

On the basis of the evidence led, the learned Tribunal awarded the following compensation to respondents No.1 to 4 in FAO-653-2020, who are widow, daughter, and parents of deceased Krishan Kumar :-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.10,000/-
2.	Future prospects (40%)	Rs.4,000/-
3.	Monthly Income after adding future prospects	Rs.14,000/- (Rs.10,000 + Rs.4,000)
4.	Annual Income	Rs.1,68,000/- (Rs.14,000 x 12)
5.	Deduction (1/3rd)	Rs.56,000/-
6.	Dependency	Rs.1,12,000/- (Rs.1,68,000 - Rs.56,000)
7.	Multiplier	17
8.	Total loss of dependency after applying multiplier	Rs.19,04,000/- (Rs.1,12,000 x 17)
9.	Funeral expenses	Rs.15,000/-
10.	Loss of estate	Rs.15,000/-
11.	Loss of consortium (spousal)	Rs.40,000/-

12.	Medical expenses	Rs.18,106/-
13.	Total compensation	Rs.19,92,106/-

The Tribunal awarded Rs.19,92,106/- along with interest at the rate of 7.5% per annum to respondents No.1 to 3 in the ratio of 33% each on account of death of Krishan Kumar in the accident in question and the appellant-insurance company and respondents No.5 and 6 were held jointly and severally liable to pay the compensation amount. The first liability was fastened upon the appellant-insurance company.

The learned Tribunal awarded the following compensation to respondents No.1 to 4 in FAO-1430-2020, who are widow, son, and parents of deceased Manoj Kumar:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.18,000/-
2.	Future prospects (40%)	Rs.7,200/-
3.	Monthly Income after adding future prospects	Rs.25,200/- (Rs.18,000 + Rs.7,200)
4.	Annual Income	Rs.3,02,400/- (Rs.25,200 x 12)
5.	Deduction (1/3rd)	Rs.1,00,800/-
6.	Dependency	Rs.2,01,600/- (Rs.3,02,400 - Rs.1,00,800)
7.	Multiplier	16
8.	Total loss of dependency after applying multiplier	Rs.32,25,600/- (Rs.2,01,600x 16)
9.	Funeral expenses	Rs.15,000/-
10.	Loss of estate	Rs.15,000/-
11.	Loss of consortium (spousal)	Rs.40,000/-
12.	Total compensation	Rs.32,95,600/-

The Tribunal awarded Rs.32,95,600/- along with interest at the rate of 7.5% per annum to respondents No.1 to 3 in the ratio of 33% each on account of death of Manoj Kumar in the accident in question and the appellant-insurance company and respondents No.5 and 6 were held jointly and severally liable to pay the compensation amount. The first liability was fastened upon the appellant-insurance company.

Learned counsel for the appellant-insurance company submits that the Tribunal erred in fastening the entire responsibility of the accident in question on the offending vehicle i.e. pick up van bearing registration No.HR-66A-2451 even though it had come during the deposition of the alleged eye witness that the accident had occurred due to a head on collusion between the swift car bearing registration No.HR-34H-8265 which was being driven by deceased Krishan Kumar and the offending vehicle. Learned counsel submits that in fact deceased Krishan Kumar had contributed to the accident as he had been driving rashly and negligently. Learned counsel further submits that the amount awarded as compensation to respondents No.1 to 4 in FAO-653-2020 on account of death of Krishan Kumar was exorbitant and required to be reassessed in the absence of no proof of income having been placed on record of the deceased. It has also been submitted that under the conventional heads also the Tribunal had awarded compensation which was not in consonance with the settled law in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 (Constitution Bench); Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram : 2018 (4) RCR (Civil) 333*** and ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009)***

6 SCC 121.

I have heard learned counsel and perused the material placed on record.

It has come in the deposition of the eye witness Om Parkash that the driver of the offending vehicle came in a rash and negligent manner and hit the car in which the deceased were travelling from the front side as a result of which the deceased received multiple and grievous injuries. Besides this, the car in which both the deceased were travelling was badly damaged. The presence of the eye witness at the time of accident in question stands further fortified from the fact that not only did the eye witness notice the registration number of the offending vehicle i.e. pick vehicle which was left behind at the spot by its driver before he fled away from the spot after the accident in question but it was the eye witness PW6 OM Parkash himself, who along with a passerby got both the deceased Krishan Kumar and Manoj Kumar admitted in the Government Hospital, Mohindergarh. The other two prosecution witnesses also corroborated the deposition of the eye witness PW-6 Om Parkash.

Coming next to the submissions made by the learned counsel regarding income of deceased Krishan Kumar being assessed on the higher side, it deserves to be rejected as the learned Tribunal has rightly assessed his income at Rs.10,000/- by treating him as a skilled worker since he was a diploma holder in hardware networking. Even qua the income of deceased Manoj Kumar which was assessed at Rs.18,000/- per month, this Court does not find any cogent reason to interfere in the same. Deceased Manoj Kumar was stated to be working as a plumber-cum-supervisor in a construction company in Chandigarh. Documentary evidence in the shape of his salary slips was also produced before the Tribunal. Hence, the income assessed qua both the deceased Manoj Kumar and Krishan Kumar comes across as just and reasonable.

As a sequel to the above, this Court does not find any merit in the submissions made by the counsel for the appellant insurance company. The compensation awarded to respondents No.1 to 4-claimants in both the appeals is in consonance with the settled law and the award passed by learned Tribunal is just which does not warrant any interference.

Accordingly, both the appeals are hereby dismissed in *limine*.

26.04.2022 (**MANJARI NEHRU KAUL**)
Vinay **JUDGE**

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