IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 89 of 2023 (O&M)
Date of decision: 18.01.2023

United India Insurance Company Ltd. ...... Appellant.

Versus

Smt. Jasbir Kaur and others .... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

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

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ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant has challenged the Award dated 07.10.2022 passed by the Motor Accidents Claims Tribunal, Chandigarh.

Learned counsel for the appellant submits that the first claim petition had been withdrawn by the claimants without any liberty to file a fresh one and, therefore, the second claim petition was not maintainable. Order 23 of the Code of Civil Procedure, 1908 ('CPC' - for short) bars a fresh petition on the same cause of action. He has relied upon the judgment of this Court in the case of Oriental Insurance Company Ltd. versus Krishna Devi and others, FAO No. 5273 of 2009, decided on 19.02.2016. The vehicle has been wrongly implicated, as the number was incorrectly mentioned and, therefore, the liability could not be fastened on the appellant-Insurance Company. There could have been further deductions from the income of the deceased as reflected in the salary slip of the deceased.

Heard.

The claim petition had been preferred by the mother, widow and children of the deceased, who had expired in an accident which took place on 10.08.2014, as his Activa was hit by a car being driven in a rash and negligent manner. The age of the deceased was 42 years at that time and it was stated, in the claim petition, that the monthly income of the deceased was ₹50,000/-. The Tribunal while relying upon his salary slip after deducting the income tax had considered income of the deceased to be ₹39,712/- per month.

Learned counsel for the appellant has not been able to point out that the compensation is excessive under any of the heads but submits that further deductions had to be carried out from his salary. The gross salary of the deceased was ₹41,212/- and deduction towards income tax of an amount of ₹1,500/- had been made from his salary and the income was assessed as ₹39,712/-. The deduction towards income tax had already been made and other deductions from the salary cannot be excluded while determining the income of the deceased.

The claimants had earlier preferred a claim petition in District Mohali, but the same had been withdrawn and they had thereafter preferred a petition at Chandigarh. The earlier claim petition had not been decided on merits and it had been simply dismissed as withdrawn. The Motor Vehicles Act, 1988 ('MV Act' - for short), is a welfare legislation and the claim ought not to be rejected on hyper technical grounds. It would not be in the interest of justice to reject the claim on this ground. It is true that the Rules of the CPC are applicable to the MV Act, but it is to be borne in mind that the rules of the procedure have to be interpreted in a manner which enhances the object of justice. The rules of procedure are handmaid of justice and are meant to aid and advance justice and not to thwart it.

I do not also find any merit in the contention of learned counsel for the appellant that the vehicle had not been properly identified. In the FIR, the number of the vehicle may not be mentioned, but later on the vehicle had been identified and the number had been mentioned. A finding of fact has been recorded in this regard by the Tribunal and without any cogent material to the contrary I would not disturb it.

Consequently, I do not find any merit in this appeal which stands dismissed.

The amount, which has been deposited by the appellant before this Court, be sent to the Tribunal concerned for disbursal thereof to the claimants.

Pending application(s), if any, shall also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

18.01.2023
Ramesh

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