IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 4773 of 2016 (O&M)
Reserved on 02.12.2022
Pronounced on 02.03.2023

New India Assurance Company Limited ... Appellant

Versus

Bala Devi and Ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Ashwani Talwar, Advocate, for the appellant.

Ms. Neha Rana, Advocate for respondent No.6.

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SANJIV BERRY, J.

1. The present appeal has been preferred by the appellant insurance company against the award dated 18.05.2016 passed by the Motor Accident Claim Tribunal, Hisar (hereinafter referred to as 'Tribunal').

2. The facts relevant to the present appeal are that the respondents-claimants, had filed the claim petition stating therein that on 21.07.2015 at about 9.00 a.m. Rajender (now deceased) alongwith Dilbag, Rajo and Sushila were travelling in a car bearing registration No. DL-2CAA 8074 from petwar to village Laloda and at about 11.00 A.M. Upon reaching 2 Kms prior to Barwala on Hansi Barwala Road, then a Dumper without number being driven by its driver came from the opposite direction and straightway struck against the car as a result of which the car was damaged while Rajender (since deceased) and other occupants sustained multiple injuries and the injured were got admitted in General Hospital, Hisar with

the help of other passer-by, injured Rajender succumbed to injuries on the way to the hospital, thereafter, FIR bearing No. 251 dated 21.07.2015 under Section 279/304A/337/427 IPC Police Station, Barwala was registered against the driver of the offending dumber bearing registration No.RJ-49-GA-0796. Deceased Rajender was 45 years of age and was working as an agriculturist and also running a milk dairy and was earning ₹20,000/- per month. A sum of ₹1,00,000/- was spent on transportation of dead body and last rites etc.

3. Respondents had contested the petition. Insurance Company-respondent-appellant has contested that driver of the offending vehicle was not having a valid and effective driving licence and as such the insurance company is not liable to indemnify the owner. The owner also did not give any information in writing to the insurance company regarding the accident and had violated Section 134(c) of the Act.

4. Tribunal awarded the following compensation and held respondents-Insurance company alongwith driver and owner of offending vehicle to be liable to pay compensation amount to the claimants jointly and severally:-

Sr.No.	**Heads**	**Compensation Awarded**
1	Income	₹66564/- per annum
2.	Future prospect (30%)	₹86534
2	Deduction (1/4th)	₹64900/-
3	Multiplier (14x64900)	₹9,08,600/-
4	Loss of consortium (wife ₹1 lakh, ₹2 lakhs children and father ₹50,000/-)	₹3,50,000/-
5	Funeral/transportation Expenses	₹25000/-
	Grand Total	**₹12,83,600/-**
	Interest	7.5%

5. Learned counsel for the appellant-Insurance Company submits that learned Tribunal has erred in assessing the quantum of compensation as the claimants claimed that the deceased was an agriculturist and running a milk dairy, however, they failed to provide any documentary evidence to prove that agricultural land exists in the name of deceased. It is further contended by the learned counsel for the appellant that the learned Tribunal without appreciating any evidence has added 30% future prospects towards the income of the deceased. Moreover, the rate of interest i.e.7.5% per annum awarded to the claimants is on the higher side and the same is liable to be reduced to 6% per annum in terms of ***United India Insurance Company Vs. Bindu (2009) 3 SCC 705***.

6. Learned counsel for respondent Nos.5 and 6 has contended that deceased was an agriculturist and running a milk dairy and at the time of death the age of the deceased was 42 years as per school certificate (Ex.P5). The learned Tribunal has assessed the income of the deceased as Rs.5547/- per month which was the minimum wage fixed by the State Government at that point of time. It is further contended that 30% is the required addition in the salary of the deceased towards the future prospects and therefore the learned Tribunal has rightfully passed the award amounting to ₹12,83,600/- along with interest at the rate of 7.5% per annum.

7. Heard learned counsel for the parties and perused the relevant material on record.

8. After considering the rival contentions and perusing the record, it tranpires that the learned Tribunal has rightly passed the award as the

deceased was below 42 years of age and multiplier of 14 is applicable as per ***Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77****.* The income of the deceased was rightly assessed by the learned Tribunal as the minimum wage as Rs.5547/- per month, which was prevalent at the relevant time and thus the annual income of the deceased would therefore be Rs.66,564/- (5547x12).

9. So far as the judgment relied upon by the learned counsel for the appellant in the case of ***National Insurance Co. Ltd. Vs. Chella Bharathamma, 2004 (4) RCR 399,*** is concerned, the onus to prove that the driver was not having a valid permit at the time of occurrence was on the Insurance Company and they had not even raised this contention at the time of arguments before the learned Tribunal. Moreover, respondent Nos.5-6 had tendered relevant documents in their support and the appellant-Insurance Company did not produce any documents to show that the driver-respondent No.5 was not having a valid permit, even after they were given sufficient effective opportunities for the same.

10. Therefore, in my deemed opinion, interest so awarded by the learned Tribunal does not deserve any interference. Hence, finding no merit in the instant appeal, the same is hereby dismissed.

11. The appellant-Insurance Company is hereby directed to release the payment due towards the claimants-respondents expeditiously in accordance with law.

12. Disposed of accordingly.

(SANJIV BERRY)
JUDGE

02.03.2023

Gyan/S.Sharma

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No