

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4429 of 2018 (O&M)

Date of decision : 14.3.2023

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Oriental Insurance Company Limited, Chandigarh

.....Appellant

vs.

Surinder Kaur and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rajneesh Malhotra, Advocate for the appellant-
Insurance company

Mr. Gopal Mittal, Advocate for respondent No.1- claimant

Mr. Pritpal Singh Miglani, Advocate for respondent No.2.

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H. S. Madaan, J. (Oral)

Briefly stated, facts of the case are that, on account of death of Kulvir Singh @ Buta, aged about 25 years, engaged in the avocation of agriculture and dairy farming, statedly earning Rs.50,000/- per month, in a motor vehicular accident, which took place on 6.5.2016 at about 8.50 P.M., in the area near petrol pump of village Noorpura, Tehsil Raikot, District Ludhiana, allegedly due to rash and negligent driving of bus bearing registration No. PB-10CS-0856, by respondent No.1 Mandeep Singh, mother of the deceased,

namely, Surinder Kaur , aged 65 resident of Village Toosa, Tehsil Raikot, District Ludhiana, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), against respondents – Mandeep Singh – driver, Punjab State Bus Stand Management Co. Ltd., Punjab Roadways Jagraon, District Ludhiana through its Managing Director – owner and Oriental Insurance Company Ltd., Chandigarh – Insurer of offending bus in question.

After contest, the claim petition was accepted by the Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') and in terms of award dated 28.2.2018, a compensation of Rs.11,96,400/- was awarded to the claimants, payable by all the three respondents, jointly and severally alongwith interest @ 7.5% per annum from the date of filing of claim petition till the date of actual realisation, besides costs of the petition.

The respondent – Insurance company felt aggrieved by the said award and has approached this Court by way of filing an appeal, notice of which was given to the respondents. Only respondents No.1 and 2 have put in appearance through counsel.

I have heard learned counsel for the parties, besides going through the record.

In the appeal filed by the Insurance company, the two main grounds were taken, firstly, that the multiplier should have been used by the Tribunal considering the age of the claimant and not of the deceased and secondly, that the future prospects have been wrongly granted @ 40% and further that the age of the deceased was 26 years,

However, it was wrongly taken as 25 years by the Tribunal, resultantly, the multiplier of 18 was used instead of 17, resulting in grant of inflated compensation.

These grounds are being vehemently opposed by learned counsel for the respondent-claimant.

However, after hearing counsel for the parties, I do not find any merit in both these grounds. As by now, the law is well settled that while calculating the compensation, the age of the deceased is to be taken into consideration and not that of the claimants and in terms of the judgment *National Insurance Company Limited vs. Pranay Sethi, 2017 (4) RCR (Civil) 1009*, an addition to the extent of 40% is to be made towards future prospects when the deceased was below the age of 40 years.

A perusal of the record goes to show that the Tribunal by giving proper reasoning and referring to the evidence brought on record by the parties, has rightly taken the age of the deceased to be 25 years.

Except arguing on these two grounds, no other point has been put forward on behalf of the appellant – Insurance company.

I do not find any merit in the appeal and the same stands dismissed.

14.3.2023
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No