

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

FAO-4565-2018(O&M)

Reserved on:-2.5.2023

Date of Pronouncement:-9.5.2023

United India Insurance Company Ltd.

...Appellant

Versus

Smt.Triveni and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ram Avtar, Advocate
for the appellant.

Mr.N.K. Malhotra, Advocate
for the respondent No.1.

H.S. MADAAN, J.

1. Briefly stated, the facts of the case are that on account of Ravinder son of late Anokhe Lal suffering injuries in a motor vehicular accident, which took place on 16.3.2014 at about 7:10 p.m. in the area near village Sankhol due to rash and negligent driving of mixture truck bearing registration No.HR-55H-1437 (hereinafter referred to as the offending truck) by respondent No.1 Kulwant Singh, to which he had succumbed later on, the mother of deceased, namely, Smt.Triveni had brought a claim petition under Section 166 of the Motor Vehicles Act against the respondents i.e. Kulwant Singh – driver, M/s Techno Concrete, Sahibabad, Ghaziabad – owner and M/s United India Insurance

Company Ltd., Meerut - insurer of the offending truck, claiming compensation, before Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as the Tribunal).

2. On notice issued by the Tribunal, respondents No.1 and 2 had not appeared despite service and they were proceeded against ex-parte. Whereas only respondent No.3 had appeared and filed written statement offering a contest.

3. After hearing arguments, the Tribunal accepted the claim petition vide award dated 5.3.2018 and awarded compensation of Rs.13,96,500/- to the claimant with interest at the rate of 7% per annum from the date of institution of the petition till the realization of the amount payable by all the respondents jointly and severally.

4. Being dissatisfied with the amount of compensation awarded feeling that it was on higher side, the respondent No.3 insurance company has approached this Court by way of filing the present appeal.

5. Notice of the appeal was given to respondents and respondent No.1 claimant has put in appearance through counsel.

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

7. The Tribunal on the basis of the evidence adduced by the parties before it had returned a finding that the accident in which Ravinder had suffered injuries due to which he died later on, had been caused on account of rash and negligent driving of offending truck by respondent No.1 Kulwant Singh inasmuch as the truck was being driven on the wrong side and at a fast speed without caring for traffic rules and it hit the auto

rickshaw bearing registration No.HR-63-B-2314 being driven by the deceased. It being so, the driver, owner and insurance company of the offending truck were found liable to pay compensation.

8. For the purpose of assessing compensation, the Tribunal had taken the age of deceased to be 34 years, considering him to be a bachelor, earning Rs.9,000/- per month, though the claim set up by the claimant was that deceased was running a shop under the name and style of M/s Sharma Electricals, Mohana Road, Ballbgarh, Faridabad; he was a matriculate and holder of certificate in Radio and T.V. From Community Polytechnic Chottu Ram Rural Institute of Technology, Kanjhawala, Delhi earning more than Rs.20,000/- month. Under the circumstances the Tribunal did not commit any error in assessing his income as Rs.9,000/- per month instead of treating him as a daily wager getting minimum wages prevalent in the State. The Tribunal was justified in making addition of 40% of this amount towards future prospects, in that way, the monthly income of the deceased was calculated as Rs.12,600/-(9000 + 3600). As deceased was unmarried, 50% of his earning is to be deducted towards personal and living expenses. Doing that the monthly dependency of the petitioner/claimant comes out to Rs.6300/-(12600 -6300) and annual to be Rs.75,600/-(6300 x 12). Keeping in view the age of deceased to be more than 35 years, the Tribunal has rightly applied multiplier of 16. The compensation calculated as Rs.12,09,600/- (75600 x 16).

9. The Tribunal has rightly awarded an amount to Rs.15,000/- on account of funeral and transportation expenses and Rs.15,000/- for loss of estate. Doing that the compensation is worked out as Rs.12,39,600/-

(12,09,600 + 15000 + 15000).

10. However, the Tribunal has not awarded any amount towards loss of consortium. As per the latest judgment **Shri Ram General Insurance Co. Ltd. Versus Bhagat Singh Rawat & Ors., Civil Appeal Nos.2410-2412/2023 [@ SLP[C] Nos.11669-11671/2020]**, the claimant is to be granted a sum of Rs.40,000/- in total under the head loss of consortium. Doing that the compensation comes out to Rs.12,79,600/- (1239600 + 40000).

11. The medical expenses to the tune of Rs.1,56,882/- (rounded of Rs.1,56,900/-) have rightly been added by the Tribunal. Doing that the total compensation comes out to Rs.14,36,500/-.

12. The Tribunal has awarded total compensation of Rs.13,96,500/- which is certainly not on higher side and does not call for any reduction. Since the claimant has not filed any cross appeal or cross-objections, I do not find it proper to grant such benefits to her but certainly there is no ground for reduction of the awarded amount.

13. The appeal stands dismissed accordingly.

Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

9.5.2023

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(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No