

FAO-5672-2023 (O&M)

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

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FAO-5672-2023 (O&M)

Decided on : 16.10.2023

SBI General Insurance Company Limited

. . . Appellant(s)

Versus

Ramvati Devi and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Satpal Dhamija, Advocate
for the appellant – Insurance Company.

SANJAY VASHISTH, J. (Oral)

1. Present appeal has been filed by the appellant – Insurance Company i.e. SBI General Insurance Company Limited (respondent No.3), in the claim petition filed before the Ld. Motor Accident Claims Tribunal, Narnaul (for brevity, ‘Ld. Tribunal’), and the award dated 29.03.2023, passed by the Ld. Tribunal, has been challenged to the extent of holding of the income of the deceased ‘Sugam Kumar’, as Rs.18,000/- per month, on the basis of salary certificate of the firm M/s Jai Shiv Vermi Shakti Compost Farm, Kheria, Aligarh.

2. Learned counsel submits that for the purpose of proving the salary, one certificate dated 04.07.2022 (Ex.P1), has been produced by PW4 - Radhe Shyam Sharma. Learned counsel refers to the submissions addressed in paragraph No.13 of the impugned award, which says as under:-

“13. PW4 Radheshyam in his testimony has stated that deceased Sugam Kumar was serving as Salesman cum Supervisor at Firm M/s. Jai Shiv Vermi Shakti Compost Farm, Kheria Aligarh and was getting Salary Rs.15500/-. He was

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working in their firm since 10.12.2020. As per certificate his last drawn salary on 5.4.2021 was Rs.18000/-”

And thus, submits that by relying upon the said part of the evidence that deceased was earning Rs.18,000/-, Ld. Tribunal has committed an error. Therefore, the appellants have completely failed in proving the salary certificate, beyond reasonable doubt. During the course of hearing, learned counsel has read out the contents of affidavit (Ex.PW4/A) tendered by PW4 – Radhe Shyam Sharma, during his evidence before the Ld. Tribunal, which is also reproduced in the present appeal, wherein, in para No.3 of the said affidavit, a specific plea has been taken by the claimants that deceased ‘Sugam Kumar’ was serving as a Salesman-cum-Supervisor in a firm namely; M/s Jai Shiv Vermi Shakti Compost Farm, Kheria, Aligarh, and said fact has been simply denied by the Insurance Company by saying ‘NO’.

3. Learned counsel further submits that it was obligatory over the claimants to discharge the burden of proving the summary of the last drawn salary of Rs.18,000/- by the deceased ‘Sugam Kumar’. He also points out that said certificate has been proved by the father of the deceased ‘Sugam Kumar’, who could not give any explanation regarding the deduction etc. of the deceased.

4. However, Court has noticed that already an affidavit (Ex.PW4/A) tendered by PW4 - Radhe Shyam Sharma, before the Ld. Tribunal, clearly mentions the fact that deceased was holding a diploma from ITI. However, this Court does not find anywhere from the impugned award that the any such argument has been addressed by counsel for the

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Insurance Company before the Ld. Tribunal, or any worth-ful cross-examination has been done to show that the salary certificate is a doubtful document.

5. Needless to say much, about the procedure of producing the documents before the Ld. Tribunal in such like summary proceedings, for deciding the rights of the victims under the provisions of the beneficial legislation, no strict procedure is required to be followed for making out a believable version.

6. Thus, finding no substance to deviate from the view taken by the Ld. Tribunal in regard to the salary of the deceased ‘Sugam Kumar’, I hereby **dismiss** the present appeal, being devoid of any merits.

7. Since, submissions addressed by learned counsel for the appellant – Insurance Company, have already been dealt with in detail, there is no need to pass any separate order in the application (i.e. CM-19288-CII-2023) for condonation of delay in filing the main appeal.

Besides above, all the remaining pending misc. applications also stand disposed of.

(SANJAY VASHISTH)
JUDGE

October 16, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*