

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

FAO No. 5530 of 2022 (O&M)

Date of decision: 30.01.2023

The New India Assurance Co. Ltd.

..... Appellant.

Versus

Reena Rani and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Lalit Garg, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant has challenged the Award dated 04.10.2022 passed by the Motor Accidents Claims Tribunal, Rupnagar ('Tribunal' - for short).

Learned counsel for the appellant submits that the income of the deceased has been assessed on higher side, as there was no cogent material in support of the income. The deceased did not own any land and, therefore, it could not be said that he would have had agricultural income. The witness, namely, Jaswinder Singh (PW3), who has been examined by the claimants, admitted in his cross-examination that he was not the Secretary of the Ladies Milk Producing Society Ltd., Sahupur. He also submits that although liability has been fastened 50% each to both the vehicles which were involved in the accident, but the appellant Company has been directed to pay the entire amount and later recover the same from the owner and driver of the other vehicle. He has relied upon the judgment of the Supreme Court in the case of

APSRTC v. Mallagundla Nagarjuna and others, 2022 ACJ 2375.

Heard.

The claimants preferred a claim petition under Section 166 of the Motor Vehicles Act, 1988 ('MV Act' - for short) on account of death of Raman Kumar, who while travelling on a motorcycle was stated to have been hit by a Tata Image vehicle, which was being driven from the opposite side, and a canter had also hit him from behind. The Tribunal has recorded a finding of fact that the drivers of both the vehicles were negligent and liability of 50% each was fastened on them. The claimants have stated that the deceased, who was doing agricultural activities and keeping milch animals for selling milk, was earning over ₹35,000/- per month. The Tribunal has assessed the income of the deceased to be ₹15,000/- per month. It has relied upon J-Forms (Ex. P8 and Ex. P9) whereby crops had been sold by the deceased. Even assuming that the deceased did not own agricultural land as he did not produce documentary evidence with regard to his ownership, the J-Forms could still be taken into account while determining the income of the deceased. He could be tilling the land as a tenant or on crop sharing basis and, therefore, J-Forms would certainly be indicative of the factum of the deceased doing agricultural work.

It is apt to notice that farm labour in Punjab commands high wages and, therefore, the deceased, who was doing agricultural work and had milch animals, would be having decent income. An income of ₹15,000/- per month, which has been considered by the Tribunal, cannot be considered either excessive or on the higher side.

PW3 Jaswinder Singh may have stated that he was not the Secretary of the Ladies Milk Producing Society Ltd., Sahupur, but as already

held hereinbefore that the income of the deceased, which has been assessed to be ₹15,000/- per month, in fact, appears to be on the lower side.

It is true that the Tribunal has held both the vehicles to be responsible for the accident and, therefore, the liability has been shared to the extent of 50% each. The other vehicle may not have been insured with the appellant Company but the interest of the appellant Company has been adequately taken care as it has been given recovery rights against the owner and driver of that vehicle.

There is no denial of the proposition of law laid down in the judgment of the Supreme Court in the case of APSRTC (supra) that if two vehicles are responsible for the accident, the liability has to be shared. This is what the Tribunal has done precisely in the instant case and the liability of both the vehicles has been directed to be shared.

In view of the above, I do not find any merit in this appeal which stands dismissed.

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

30.01.2023
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No