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

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**FAO-973-2023 (O&M) &
XOBJC-130-2023 (O&M)
Date of decision: 24.01.2024**

THE NEW INDIA ASSURANCE CO. LTD. ..Appellant

Versus

GIAN SINGH AND ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Punit Jain, Advocate
for the appellant.

Mr. Satwant Singh Rangi, Advocate
for respondent No.1 to 3.

ANIL KSHETARPAL, J(Oral)

1. With the consent of the learned counsel representing the parties, the appeal as well as cross-objection filed by the insurance company and the claimants shall stand disposed of by this common order.

2. In an automobile accident, Sh. Manjot Singh aged about 20 years lost his precious life. He was the only son of his parents. The Motor Accident Claims Tribunal (hereinafter referred to as the 'Tribunal') has awarded Rs.24,41,000/- along with the interest at the rate of 6% from the date of filing of the claim petition till realization of the compensation amount to the parents and unmarried sister of the deceased.

3. On the one hand, the learned counsel representing the insurance company contends that Sh. Manjot Singh did not possess driving licence and therefore, he was contributory negligent in the accident. He further submits that the driver of the truck namely Sh. Karam Singh possessed driving

licence to drive Light Motor Vehicle (LMV) and motorcycle i.e. two wheeler. He submits that he was not competent to drive heavy vehicle.

4. On the other hand, the learned counsel representing the claimants contends that Sh. Manjot Singh was awaiting for the green light at a four leg intersection and Sh. Karam Singh while driving TATA truck bearing the registration plate No.PB-11AP-9248 in a rash and negligent manner came and hit the motorcycle from behind. He submits that in such circumstances, Sh. Manjot Singh (deceased) was not contributory negligent. He also relies upon the Supreme Court judgment passed in ***Sudhir Kumar Rana Vs. Surinder Singh and others, 2008(12) SCC 436***. While pressing the cross-objection, the learned counsel representing the claimants contends that the Court has erred in assessing the income of the deceased at the rate of Rs.15,000/- per month, though it has come on record that the deceased was earning Rs.25,000/- per month by selling milk to the Madanpur Cooperative Society, Verka, Mohali. He was also working as LIC agent besides helping his father in agricultural work.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. In the facts of the present case, it would not be appropriate to hold that Sh. Manjot Singh had contributed in the accident, particularly when he was awaiting for green light at four leg intersection when he was run over by the truck. In these circumstances, the argument of the learned counsel representing the insurance company lacks substance.

7. As regard the argument with respect to the driving licence possessed by Sh. Karam Singh, it is evident that the Tribunal has brushed

aside the objection of the insurance company without recording any reason. In para 14 of the award passed by the Tribunal, it has been noted that Sh.Karam Singh was holding a valid driving licence. It is not in dispute that Sh. Karam Singh did possess the driving licence, however, the question is whether Sh. Karam Singh was legally permitted to drive heavy transport vehicle. This issue should have been examined by the Tribunal after appreciating the evidence led by the parties.

8. Sh. Karam Singh despite notice has not entered appearance.

9. Keeping in view the aforesaid facts, the decision with regard to the competence of Sh. Karam Singh to drive the vehicle in the context of liability of the insurance company is remitted back to the Tribunal for fresh decision.

10. As far as the contention of the learned counsel representing the claimants is concerned, it may be noted that the claimants witness CW-2 Sh. Gagandeep Singh has stated that late Sh. Manjot Singh was his best friend and he was not running any dairy. It may be noted here that Sh. Manjot Singh is stated to be studying in Industrial Training Institute. He is also working as LIC agent. The Tribunal has already assessed his income at the rate of Rs.15,000/- per month after taking into account his earning from the commission from LIC and other factors. This Court does not find it appropriate to modify the same. In the end, the learned counsel representing the claimants submits that the Tribunal has directed payment of the amount along with 6% interest, which is on the lower side.

11. Keeping in view the aforesaid facts, the award passed by the Tribunal to the extent of quantum of compensation is upheld with

modification that the amount shall be payable along with the interest at the rate of 9% instead of 6%.

12. Keeping in view the aforesaid discussion, the appeal as well as cross-objection are disposed of.

13. The insurance company through his counsel is directed to appear before the Tribunal on 19.02.2024, for decision on the question of liability of the insurance company in the context of driving licence possessed by Sh. Karam Singh. The Tribunal will make yet another attempt to serve the notice upon Sh. Karam Singh.

14. The statutory amount of Rs.25,000/- be remitted to the Tribunal for disbursement.

15. All the pending miscellaneous applications, if any, are also disposed of.

January 24th, 2024 **(ANIL KSHETARPAL)**
Ay **JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*