

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****141****FAO-2252-2024 (O&M)****Reserved on : 12.08.2024****Date of Decision : 21.08.2024**

The New India Assurance Company Limited

....Appellant

VERSUS

Ramandeep Kaur and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Pradeep Kumar, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been preferred by the Insurance Company challenging the award dated 03.01.2024 passed by the Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as the Tribunal').

2. The brief facts relevant to the present *lis* are that the claimant-respondent Nos.1 to 4 filed a claim petition under Section 166 of the Motor Vehicles Act, 1988. It was averred in the claim petition that on 23.11.2021, at about 06.30 pm, Baljit Singh (hereinafter referred to as the 'deceased') was coming back to his house on his Platina motorcycle bearing registration No.PB-09-W-6726 and when he reached at Adda Fatowal his motorcycle was hit by a bus bearing registration No.PB-08-BL-5411 (hereinafter referred to as the 'offending vehicle'), which was wrongly and negligently parked by respondent No.5 herein on the roadside where there was no parking place. Due to the accident the deceased received grievous injuries,

and he was taken to Hemkunt Hospital, Lohian where he was declared dead. DDR was got registered being DDR No.24 dated 23.11.2021. The Tribunal, on the basis of the pleadings and the evidence on the record, awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,907/-
2	Annual income	[Rs.9,907 x 12] = Rs.1,18,884/-
3	Amount after applying deduction 1/3 rd	Rs.79,260/-
4	Multiplier of 15	[Rs.79,260 x 15] = Rs.11,88,900/-
5	Loss of Estate	Rs.15,000/-
6	Loss of Consortium	Rs.40,000/-
7	Funeral expenses	Rs.15,000/-
	Total Compensation	Rs.12,58,900/-
	Interest	7.5% per annum

3. Aggrieved by the award, the present appeal has been preferred by the Insurance Company. Learned counsel for the appellant would contend that the Manager of the offending vehicle has stepped into the witness-box and has stated that the offending vehicle had some mechanical problem and the same was parked on the vacant space and that too after taking precautions. Learned counsel for the appellant would further contend that the amount awarded by the Tribunal is also on the higher side.

4. Heard.

5. In the present case two-fold arguments have been raised by learned counsel for the appellant. Firstly, that it could not be held that the offending vehicle was negligent in any manner and secondly that the amount awarded by the Tribunal is excessive. Dealing with the first argument, the Tribunal in the award has noticed that in the cross-examination of claimant

No.1 i.e. wife of the deceased a specific suggestion was put that the offending vehicle was standing at the bus-stop. The claimant specifically clarified that the offending bus was not standing at the Bus Stand and rather it was parked on the road. The argument of learned counsel for the appellant that the Manager has appeared as RW-1 and has deposed that the offending bus was parked properly and hence the Tribunal ought to have held it at best to be a case of contributory negligence cannot be accepted. The driver of the offending bus, who was the only person present at the relevant time, did not step into the witness-box. The Manager admittedly was not present at the time of the accident. PW-2 Nirmal Singh, who stepped into the witness-box, clearly explained that the offending bus was not having any reflectors. It was parked on the road whereas the Bus Stand Fatowal is not on the road. Both the claimant and the witness PW-2 were consistent in their stand and withstood the cross-examination. Further still, the Manager, who stepped into the witness-box as RW-2, admitted that the offending bus had broken down due to some mechanical problem and that it was parked on the metalled road. It has been admitted by him that he was not a witness to the alleged accident nor he had any personal knowledge regarding the accident. In the absence of any evidence on the record to show that the offending bus was properly parked, no fault can be found with the findings returned by the Tribunal. Coming to the second argument of learned counsel for the appellant that the amount awarded by the Tribunal is excessive, the same also deserves to be rejected inasmuch as learned counsel for the appellant has not been able to convince this Court as to under what head the amount awarded is in excess.

6. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.08.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO