



FAO-2526-2007 (O&M)

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

**FAO-2526-2007 (O&M)
Date of Decision: 19.11.2024**

National Insurance Company Limited

.....Appellants

Vs.

Mannu Puri and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Karminder Singh, Advocate,
for the appellant-Insurance Company.

Mr. Rishav Jain, Advocate, and
Mr. Shivay Singla, Advocate,
for respondents No.1 and 2.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 18.04.2007 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Nawanshahar (for short, 'the Tribunal'), whereby the appellant-Insurance Company has been fastened with liability to pay the compensation.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 12.09.2003, both the claimants/appellants accompanied by deceased-Anu Puri and deceased-Kamla Puri set out from Jalandhar to Nawanshahar in Maruti Zen Car bearing registration No.PB-08-AK-5311, which was being driven by claimant/appellant No.2 at a moderate speed and on the correct side of the road. When the car reached in the area of Village Mazari at about 8:00 P.M., it rammed into a stationary truck bearing registration No.PB-10-U-9897, which was lying stationed in the middle of the road



by respondent No.1 (driver) covered with tarpoline and without turning on its lights/parking lights or indicators and without taking any precautions and safeguards. As a result of this impact, Anu Puri and Kamla Puri (both deceased) sustained multiple and serious injuries and their bodies got entangled in the mangled remains of the car. After extricating their bodies from the car, they were rushed to Guru Nanak Mission Hospital, Dhahan Kaleran, where both were declared brought dead. In this regard, F.I.R (Ex.PA) under Sections 283/337/304-/427 of IPC was registered against respondent No.1 at Police Station Banga, District Nawashahar.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition and denied the factum of the accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

- “1) Whether respondent No.1 while driving truck No.PB-10-U-9897 so rashly and negligently on 12.09.2003, at 8:00 PM, caused the accident as a result of which, Anu Puri died? OPP.*
- 2) If issue No.1 is proved to what amount of compensation, claimants are entitled to and from whom? OPP.*
- 3) Whether respondent No.1 was not holding a legal and valid driving licence? OPR.*
- 4) Relief.”*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.8,35,600/- alongwith interest @ 8% per annum. However, the liability to pay the compensation has been fastened upon the appellant-Insurance Company. Hence, the present appeal.



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SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. The learned counsel for the appellant contends that this is a case of contributory/composite negligence but the learned Tribunal failed to appreciate this fact. He further contends that the driver of the truck was not at fault as the car hit from behind when it was lying stationed. He further contends that the learned Tribunal has wrongly assessed the income of the deceased and has also wrongly applied the multiplier. Therefore, he prays that the present appeal be allowed.

7. *Per contra*, learned counsel for respondents/claimants argues that in the appeal filed by them, this Court has enhanced the compensation. Therefore, he prays for dismissal of the present appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. So far as the contentions raised by the learned counsel for the appellant-Insurance Company are concerned, the same have already been dealt with by this Court today itself while deciding FAO-3208-2007 arisen out of the same accident and accordingly, the same are rejected.

10. In view of the above, no ground is made out to interfere in the impugned award passed by the learned Tribunal. Therefore, the appeal stands dismissed.

11. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

19.11.2024
Virrendra

Whether speaking/non-speaking : Yes
Whether reportable : Yes/No