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

**Reserved on : November 19, 2024**
**Pronounced on : December 02, 2024**

**(i) FAO No.4282 of 2018 (O&M)**

**Smt. Baljeet Kaur and others . . . . Appellants**

Vs.

Sukhbir Singh and others . . . . RESPONDENTS

* * * *

**(ii) XOBJC-143-2019 (O&M)**

**Smt. Baljeet Kaur and others . . . . Appellants**

Vs.

Sukhbir Singh and others . . . . RESPONDENTS/CROSS OBJECTOR

* * * *

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Present:-** Mr. Raghav Bali and Sikandh Mehta, Advocates for the claimants-appellants.

Mr. Aman Bansal, Advocate for respondent No.2/Cross objector.

Mr. Amit Kundra, Advocate

for respondent No.3-Insurance Company.

**DEEPAK GUPTA, J.**

Claimants are in this appeal seeking enhancement in the compensation amount; whereas the owner/insured of the offending vehicle has filed cross-objections against recovery rights against him given to the Insurance Company by the Tribunal.

2. On 10.12.2014, Jaspal Singh (deceased) was travelling in Canter No.PB-23F-0778 being driven by one Satnam Singh. Said Canter met with a motor vehicular accident due to rash and negligent driving of respondent Sukhbir Singh, who was driving offending Truck No.HR-73-7653, as a result of which, Jaspal Singh lost the life. FIR No.840 dated 11.12.2014 under Sections 279, 304-A and 337 IPC was registered at Police Station Sadar Karnal regarding the said accident. The widow and three children of deceased – Jaspal Singh filed petition under Section 166 of the Motor Vehicular Act, 1988 (for short 'the M.V. Act') against driver, owner (cross-objector herein) & insurer of the offending vehicle, seeking compensation on account of the death of Jaspal Singh before Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal'). It was pleaded that deceased was 38 years of age; that he was driver by profession earning ₹20,000/- per month and that claimants were dependent upon his earnings. All the respondents resisted the claim.

3. The Tribunal found Sukhbir Singh - respondent No.1 to be responsible for causing the accident due to his rash and negligent driving. The age of the deceased was found to be about 40 years. As the claimants could not produce any cogent evidence regarding the claimed income of ₹20,000/- per month, so his income was taken at the minimum wages of ₹8,100/- per month at the relevant time. 25% was added towards future prospects. 1/4th deduction was made on account of self-expenses. Multiplier of 15 was applied. After adding compensation towards loss of consortium, loss of estate and funeral expenses, total compensation of ₹14,36,875/- was allowed by the Tribunal vide Award dated 19.12.2017. At the same time, it was held that though the offending vehicle was insured at the time of accident, but the driver was not having a valid and effective driving licence on the date of accident, inasmuch as his driving licence had already expired and that he had got the same renewed much after the date of accident. As such, though the Insurance Company was directed to pay the compensation amount, but it was given recovery rights against the owner (cross-objector herein) of the offending vehicle.

4. Against the aforesaid Award, the claimants have filed the present appeal seeking enhancement. It is contended by learned counsel for the appellants that the age of the deceased was 38 years, i.e. less than 40 years and therefore, 40% amount should have been added towards future prospects. It is also contended that compensation towards filial consortium to the children of deceased has not been granted, to which they are entitled.

5. On the other hand, learned counsel for the insured/owner of the offending vehicle contends that the accident took place on 10.12.2014; whereas, respondent No.1 – driver had got his driving licence renewed on 19.12.2014, i.e. within 01 month from the date of accident and as such, the insured could not be held liable to pay the compensation amount.

6. Ld. counsel for the Insurance Company has defended the Award passed by the Tribunal.

7. This Court has considered submissions of both the sides and has appraised the record carefully.

8. There is no dispute regarding the issue of negligence. The points raised in the appeal and counter claim are only regarding the quantum of compensation; and the liability of the owner, as to whether insurance company has been rightly given recovery rights or not.

9. Taking up the issue relating to quantum of compensation, it is not disputed by learned counsel for the claimants-appellants that no documentary or any other cogent evidence was adduced to show that the deceased was earning ₹20,000/- per month as a Driver, as was claimed in the petition. The perusal of the Award would reveal that the claimants even could not place on record any driving licence of the deceased to show that he was a professional driver. In these circumstances, the Tribunal did not commit any error in taking the income of the deceased to be ₹8,100/- per month on the basis of minimum wages prevalent at the relevant time.

10. The age of the deceased was testified by the claimants to be 38 years. The Tribunal took the age to be around 40 years based upon the age as mentioned in the postmortem report. Although, the multiplier of 15 has been rightly applied by the Tribunal, but it has wrongly made addition of 25% only towards future prospectus. As per the legal position explained by Hon'ble Supreme Court in ***"National Insurance Company Limited v. Pranay Sethi and others" 2017(4) RCR (Civil) 1009,*** if the deceased was up to 40 years of age, 40% of the income is liable to be added towards future prospects.

11. Apart from above, the Tribunal has awarded loss of consortium as ₹40,000/- only to the widow of the deceased. No compensation under this head has been awarded to three minor children of the deceased, to which they are entitled as has been held by the Hon'ble Supreme Court in **"Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram and others", *2018 (18) SCC 130***. As such, claimants are held entitled to the loss of consortium/filial consortium under this head as ₹40,000/- to each claimant. Since the present appeal is being disposed of in 2024, therefore, considering the guidelines provided in ***Pranay Sethi's*** case (supra), 20% more is to be added and as such, they would be entitled to ₹48,000/- per claimant towards loss of consortium. Similarly, they are entitled for funeral expenses and loss of estate @ ₹18,000/- each.

12. On account of the aforesaid discussion, the quantum of compensation, to which the claimants are entitled is re-worked out, as under:-

| | **Deceased: Jaspal Singh**<br>**Age : 38 years**<br>**No. of claimants : 04** | **Compensation awarded by MACT**<br>**(in ₹)** | **Compensation assessed by this Court (in ₹)** |
|---|---|---|---|
| 1. | Income | Monthly : 8,100/-<br>Annual : 97,200/- | Monthly : 8,100/-<br>Annual : 97,200/- |
| 2. | Addition towards future | 25% | 40% |

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| | prospects | | |
| 2. | Annual Income after adding future prospects | 97200+24,300 = 1,21,500/- | 97,200+38,880 = 1,36,080/- |
| 3. | Annual Income after deduction of 1/4 | 1,21,500-30,375 = 91,125/- | 1,36,080-34,020 = 1,02,060/- |
| 3. | Multiplier | 15 | 15 |
| 4. | Loss of dependency | 91,125 x 15 = 13,66,875/- | 1,02,060 x 15 = 15,30,900/- |
| 5 | Loss of Estate | 70,000/- | 18,000/- |
| 5. | Funeral Expenses | | 18,000/- |
| 6. | Loss of consortium<br>(i) Parental<br>(ii) Filial<br>(iii) Spousal | | <br>---<br>48,000 X 3 = 1,44,000/-<br>48,000/-<br>Total : (1,92,000/-) |
| | **Total compensation** | **14,36,875/-** | **17,58,900/-** |
| | **Enhanced compensation** | **17,58,900 – 14,36,875 = 3,22,025/-** | |
| | **Rate of interest** | **7.5%** | **7.5 %** |

13. As such, the appeal filed by the claimants is partly allowed to the extent as above. The Award passed by the Tribunal is hereby modified by enhancing the compensation amount from **14,36,875/-** to **17,58,900/-**. It is held further that claimants shall be entitled to said amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till its realization. Rest of the terms of the award shall remain as it is i.e., as per award of the Tribunal.

14. Coming to the cross objections filed by the owner of the offending vehicle, it has been found by the Tribunal based upon the testimony of RW1, an official of the Registration Authority, on the basis of the record brought by him that driver of the offending vehicle was issued driving

licence for the period of 27.03.2006 to 25.03.2009. He got it renewed w.e.f. 02.02.2011 to 01.02.2014. Accident had taken place on 10.12.2014. On the date of accident, the driver was not holding a valid and effective driving licence, as he got it further renewed w.e.f. 19.12.2014 to 18.12.2017 as per the documents Ex.RW1/A and Ex.RW1/B proved on record.

15. Contention of learned counsel for the cross objector- owner is that since the driver had got his driving licence renewed within one month from the date of the accident, and he was not disqualified from holding a valid driving licence, therefore, Insurance Company has been wrongly given the recovery rights. Learned counsel has relied upon :-

- ***National Insurance Co. Ltd. v. Swaran Singh and others, SLP (Civil) No.9027 of 2003, decided on 05.01.2024. [Supreme Court]***
- ***New India Assurance Co. Ltd. v. Santosh Devi and others MAC. App. 866/2017, decided on 09.01.2019. [Delhi High Court]***
- ***The Oriental Insurance Co. Ltd. v. Mohit Dabas & Ors., MAC. APP. 882/2019, decided on 18.11.2019. [Delhi High Court]***
- ***The National Insurance Co. Ltd. v. Om Prakash & Ors., MAC. APP No.77/2008, decided on 29.03.2012. [Delhi High Court]***
- ***New India Assurance Co. Ltd. v. Sri Krishnappa, since dead by LRs and others, M.F.A. No.7960 of 2013 (MV-D), decided on 23.06.2020. [Karnataka High Court]***

16. On the other hand, learned counsel for the Insurance Company has defended the Award as passed by the Tribunal and contended that the Tribunal has rightly held that since the driver did not get his driving licence renewed within one month of the date of its expiry from 01.02.2014, therefore, as on the date of accident, he cannot be deemed to have a valid and effective driving licence and therefore, the Insurance Company has been

rightly given the recovery rights. Learned counsel has relied upon following authorities:-

- ***National Insurance Co. Ltd. v. Vidhyadhar Mahariwala and Ors., 2008(4) R.C.R. (Civil) 485. [Supreme Court]***
- ***Ishwar Chandra & Ors. v. The Oriental Insurance Co. Ltd. and Ors., 2007(2) R.C.R. (Civil) 370. [Supreme Court]***
- ***New India Assurance Company Limited v. Mahavir Parshad Sharma and others, FAO-2090-2010 (O&M) and XOBJ-79-CII-2011, decided on 14.02.2012. [Pb. & Hr. High Court]***
- ***Karan Singh and another v. Suraj Bhan and others, FAO No.4759 of 2003 (O&M), decided on 08.02.2017. [Pb. & Hr. High Court]***
- ***Devinder Singh and others v. Rambha Devi and others, FAO No.5978 of 2002, decided on 24.12.2008. [Pb. & Hr. High Court]***
- ***Ram Babu Tiwari v. United India Insurance Co. Ltd. & Ors., 2008(3) R.C.R.(Civil) 912. [Supreme Court]***
- ***National Insurance Company Limited v. Jarnail Singh and others, 2007(15) SCC 28. [Supreme Court]***

17. Factual position is not in dispute to the effect that driver of the offending vehicle was holding the driving licence to drive the kind of the offending vehicle effective from 02.02.2011 to 01.02.2014. The accident took place on 10.12.2014. During this period, i.e. from the date of expiry of the driving licence on 02.02.2014 till 18.12.2014, the driver did not have any valid licence, as he got his licence renewed w.e.f. 19.12.2014 to 18.12.2017.

18. Section 15 of the Motor Vehicles Act, 1988 (for short 'the M.V. Act') provides about the renewal of the driving licences. It reads as under:-

> "15. **Renewal of driving licences. -** (1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry :
>
> Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal: "

19.1 In ***Ishwar Chand's case (supra),*** the driving licence of the driver had expired on 27.08.1994. The accident had taken place on 28.04.1995. The driver got it renewed it later on. The question was that whether the Insurance Company was liable to reimburse the amount of compensation payable by the owner to the claimants. Hon'ble Supreme Court referred to Section 15 of the M.V. Act and then held as under:-

> 9. From a bare perusal of the said provision, it would appear that the licence is renewed in terms of the said Act and the rules framed thereunder. The proviso appended to Section 15(1) of the Act in no uncertain terms states that whereas the original licence granted despite expiry remains valid for a period of 30 days from the date of expiry, if any application for renewal thereof is filed thereafter, the same would be renewed from the date of its renewal. The accident took place 28.04.1995. As on the said date, the renewal application had not been filed, the driver, did not have a valid licence on the date when the vehicle met with the accident.
>
> 10. In ***Swaran Singh (supra),*** whereupon the learned counsel appearing on behalf of the appellants relied upon, it is stated :
>
> > "45. Thus, a person whose licence is ordinarily renewed in terms of the Motor Vehicles Act and the Rules framed thereunder, despite the fact that during the interregnum period, namely, when the accident took place and the date of expiry of the licence, he did not have a valid licence, he could during the prescribed period apply for renewal thereof and could obtain the same automatically without undergoing any further test or without having been declared unqualified therefor. Proviso appended to Section 14 in unequivocal terms states that the licence remains valid for a period of thirty days from the day of its expiry.

> 46. Section 15 of the Act does not empower the authorities to reject an application for renewal only on the ground that there is a break in validity or tenure of the driving licence has lapsed, as in the meantime the provisions for disqualification of the driver contained in Sections 19, 20, 21, 22, 23 and 24 will not be attracted, would indisputably confer a right upon the person to get his driving licence renewed. In that view of the matter, he cannot be said to be delicensed and the same shall remain valid for a period of thirty days after its expiry."

19.2 Hon'ble Supreme Court further referred to ***"National Insurance Company v. Kusum Rai & Others", 2006(2) RCR (Civil) 313 (SC)***; and "***Oriental Insurance Co. Ltd. V. Nanjapppan and Others", AIR 2004 Supreme Court 1630*** and concluded that as the driver of the vehicle possessed the licence, validity of which had expired 08 months prior to the occurrence, therefore, Insurance Company was not liable to pay the compensation amount.

20.1 The contention of learned counsel for the cross objector – owner to the effect that so long as the driver was holding a driving licence and was not disqualified from possessing the same, the insurance company is not absolved from its liability to pay the compensation, even if the driving licence had expired and the renewal thereof was made subsequent to the accident, has no merit.

20.2 Similar contention was also raised before this Court in case of ***Devinder Singh and others v. Rambha Devi (cited supra).*** This Court held that it might be possible to make such an inference considering the judgment of Hon'ble Supreme Court in ***Swaran Singh's case (supra).*** However, it was noticed further that the said judgment of ***Swaran Singh's case (supra)*** and catena of various other judgments of Hon'ble Supreme Court, particularly in ***Ishawar Chand's case (supra)*** were considered by the Apex Court in "***Ram Babu Tiwari v. United Insurance Company Ltd.", 2008(8) SC 165*** and Hon'ble Supreme Court, in the context of Section 15 of the M.V.Act held, as under:-

> "It is beyond any doubt or dispute that only in the event an application for renewal of licence is filed within a period of 30 days from the date of expiry

Sarita Rani
2024.12.02 06:27
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thereof, the same would be renewed automatically, which means that even if an accident had taken place with the aforementioned period, the driver may be held to be possessing a valid licence. The proviso appended to sub-section (1) of Section 15, however, clearly states that the driving licence shall be renewed with effect from the date of its renewal in the event the application for renewal of a licence is made more than 30 days after the date of its expiry. It is, therefore, evident that as, on renewal of the licence on such terms, the driver of the vehicle cannot be said to be holding a valid licence, the insurer would not be liable to indemnify the insured."

21. Same view was taken by Hon'ble Supreme Court in ***National Insurance Company Limited v. Jarnail Singh (cited supra).*** Hon'ble Supreme Court has also followed the same view in ***Vidhyadhar Mahariwala's case (supra)***. In that case, driver was possessing a driving licence, the validity of which had expired 06 months prior to the accident. It was held that Insurance Company was not liable. This Court in ***Mahavir Parshad Sharma's case (supra); Karan Singh's case (supra);*** and ***Devinder Singh's case (supra)*** has also taken the same view. In the circumstances, the contrary view taken by Delhi & Karnataka High Court in the authorities cited by Ld. Counsel for the cross-objector/owner cannot give any advantage to him.

22. In the present case also, the driving licence of respondent No.1-driver had expired on 01.02.2014. He did not take any step to get it renewed within 01 month from the date of expiry. Rather, the licence was renewed w.e.f. 19.12.2014 to 18.12.2017. Prior thereto, the accident had taken place on 10.12.2014. Simply because the renewal was got effected within 01 month from the date of accident, is of no significance, inasmuch as the renewal was not got done by the driver within 01 month from the date of expiry of the driving licence. In view of the legal position as explained in ***Ishwar Singh and other cases***, in such circumstances, the renewal shall be effective from 19.12.2014.

23. As such, it is held that the Tribunal did not commit any error in fastening the liability upon the owner of the offending vehicle and has rightly given the recovery rights to the Insurance Company.

24. On account of the aforesaid discussion, the appeal as filed by the claimants is partly accepted; whereas the cross-objections as filed by the owner of the offending vehicle are hereby dismissed.

Photocopy of this order be placed on the connected case file.

**December 02, 2024** **(DEEPAK GUPTA)**
*Sarita* **JUDGE**

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| Whether speaking/reasoned? | Yes |
| Whether reportable? | No |