

2024:PHHC:011241

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

FAO-369-2024(O&M)
Date of decision: 25.01.2024

The Oriental Insurance Company Limited
....Appellant

Versus

Smt. Rekha and others
..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Sanjiv Pabbi, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

This appeal has been filed by the Insurance Company to challenge the correctness of the award passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') while allowing the respondents claim petition filed under Section 166 of the Motor Vehicles Act, 1988. Late Sh.Sanjay, aged about 46 years, lost his precious life in an automobile accident, which took place on 04.09.2021, at about 10:30 am. The manner in which the accident took place and the finding of the Tribunal to the effect that Pardeep was driving his motorcycle in a rash and negligent manner, which caused accident, is not in dispute. In this appeal, the Insurance Company challenges the correctness of the amount of the assessment of the compensation. Sh. Sanjay has left behind widow, two sons out of which one is minor and his mother. The Tribunal, while relying upon the income tax return filed for the assessment year 2019, which reflects income of Rs.3,00,000/- per annum, has ordered payment of compensation of Rs.37,66,250/-.

Learned counsel representing the appellant contends that only one income tax return has been produced and under the conventional head, the court has awarded loss of consortium at the rate of Rs.80,000/-, which is not permissible.

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

On a Court question, the learned counsel representing the appellant admits that the income tax return was filed much before the death of Sh.Sanjay. The income reflected is not proved to be excessive, particularly when it has come on record that late Sh.Sanjay was running a furniture shop. As already noticed, the Tribunal has awarded an amount of Rs.80,000/- towards loss of Consortium whereas he left behind widow, two sons and one mother. The Supreme Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others 2018 (4) RCR(Civil) 333, New India Assurance Co. Ltd. vs. Somwati and others Civil Appeal No.3093 of 2020, decided on 07.09.2020 and United India Insurance Company Ltd. vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410**, has held that the each of the claimants is entitled to the loss of Consortium at the rate of Rs.40,000/-.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Hence, dismissed.

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

25.01.2024
rekha
Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(ANIL KSHETARPAL)
JUDGE