124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2962-2024 (O&M)
Date of decision: 16.01.2025

ORIENTAL INSURANCE COMPANY LTD. ...APPELLANT

VERSUS

PAVNEET KAUR AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

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SUVIR SEHGAL, J. (ORAL)

1. This appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 assailing award dated 07.03.2024 passed by the Motor Accident Claims Tribunal (for short ' The Tribunal'), SBS Nagar, whereby claim petition filed by claimant-respondent No.1 has been accepted.

2. Brief facts into the filing of the appeal are that Guriqbal Singh, was driving a car on 12.09.2022. His wife, Ramandeep Kaur and son, Jasneet Singh were travelling with him. When they reached at a T-point of Mahalpur, a Tralla being driven rashly by respondent No.2 overturned and fell on their car, crushing them underneath. The occupants of the car received serious injuries and were shifted to Civil Hospital, Banga, but, they could not be saved. FIR No. 75 dated 12.09.2022, Ex-C-1, was lodged under Sections 304 and 427 of the IPC at Police Station Behram, on the statement of an eye-witness Jatinder Singh. Respondent No.1, daughter of the deceased, filed a claim petition for compensation on account of the untimely death of her mother in the motor accident. Claim petition was contested by the appellant-Insurance Company as

well as the other respondents and has been accepted vide the impugned award whereby compensation of Rs.9,00,000/- have been granted to the claimant along with the interest @ 7.5% per annum from the date of the filing of the claim petition.

3. Counsel for the appellant has argued that the Tribunal has erred in awarding a huge amount of compensation on account of the death of Ramandeep Kaur, who was a housewife as the claimants had failed to establish her income. He asserts that the offending vehicle did not have valid registration certificate nor did it have the fitness certificate. It was being driven in violation of the terms and conditions of the insurance policy. It is his case that the Insurance Company could not be fastened with the liability to pay the compensation.

4. Heard counsel for the appellant and considered his submission.

5. Besides stepping into the witness box as her own witness, claimant has examined Jatinder Singh, eye witness as CW2, who has proved the factum of accident. Jatinder Singh is also the informant and on the basis of his statement, an FIR (Annexure P-1) has been registered. He has also produced the CCTV footage of the accident as Ex. C-18. He has explained in detail the accident and despite extensive cross examination, his testimony could not be shaken. Tribunal returned the finding that the accident was on account of negligent driving of respondent No.2 and that Ramandeep Kaur succumbed to the injuries sustained by her in the vehicular accident.

6. In order to establish that her deceased mother was earning, the claimant has produced income tax returns for the assessment year 2016-17 and 2018-19 as Ex. C-2 and C-3, respectively, which show that the deceased had filed annual return of Rs.3,01,540/- and Rs.71,110/-, respectively. On the basis of the date of birth as mentioned in Aadhar Card, Ex. C-4 and Pan Card, Ex. C-

6, tribunal came to the conclusion that the deceased was 40 years of age. By taking the latest of the two IT returns, tribunal determined the annual income of Rs.71,112/-. Upon adding 25% towards future prospects, tribunal worked out the annual income of the deceased as Rs.88,890/-. After making the deduction towards her personal expenses and applying a multiplier of 14, the tribunal awarded an amount of Rs.8,99,640/- inclusive of funeral expenses, loss of estate and consortium. The tribunal rounded off the amount to Rs.9,00,000/-, which was awarded as compensation to the claimant alongwith interest from the date of the claim petition.

7. Since the owner of the offending vehicle did not produce registration and fitness certificate as well as other documents, while awarding the compensation, liberty was granted to the Insurance Company to effect recovery from the other respondents i.e. owner and driver of the offending vehicle.

8. This Court is of the view that the conclusion arrived at by the tribunal is just and fair. It does not call for any interference. The tribunal has appreciated the evidence produced by the parties to arrive at the compensation amount. The interest of the Insurance Company is also protected and recovery rights have been given to it. This Court does not find any ground to interfere with the award passed by the tribunal.

9. For the reasons recorded above, there is no merit in the appeal, which is dismissed with no order as to costs.

10. Pending applications, if any, stand disposed of.

16.01.2025 **(SUVIR SEHGAL)**
renubala **JUDGE**

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