



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
231+279

Date of decision: 18.08.2025

FAO-4658-2008(O&M)

The Oriental Insurance Co. Ltd.

...Appellant(s)

Vs.

Smt. Mewa Rani & Others

...Respondent(s)

FAO-4029-2008(O&M)

Smt. Mewa Rani & Others

...Appellant(s)

Vs.

The Oriental Insurance Company Ltd. & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Varun Sharma, Advocate
for the appellant-Insurance Company
(in FAO-4658-2008).

Mr. R.S. Mamli, Advocate
for respondents No.1 to 5-claimants.

Mr. Mukul Bura, Advocate for
Mr. V.K. Gupta, Advocate
Mr. Pankaj Mehta, Advocate
for respondent No.8-driver and owner.

NIDHI GUPTA, J.

FAO-4658-2008

Present appeal has been filed by the Insurance Company
seeking setting aside of Award dated 08.08.2008 passed by the Motor



Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the learned Tribunal') in MACT Case No.42 dated 17.07.2006 filed under Section 166 of the Motor Vehicles Act, 1988, whereby claimants/respondent no.1 to 7 herein, have been awarded compensation of Rs.9,37,000/-. The 7 claimants are the widow, 4 children, and parents of deceased Ramesh Kumar.

FAO-4029-2008

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.9,37,000/- awarded by the learned Tribunal vide Award dated 08.08.2008 passed in MACT Case No.42 dated 17.07.2006 filed under Section 166 of the Motor Vehicles Act, 1988.

Both the above appeals are being disposed of by this common order as both appeals arise out of the same Award dated 08.08.2008; and parties, accident and facts are identical in both the cases. For the sake of convenience, the parties are being referred to and facts are being drawn from FAO-4658-2008 filed by the Insurance Company.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Ramesh Kumar had died due to the injuries suffered by him in the motor vehicular accident that took place on 04.05.2006 at about 9:30 pm, due to the rash and negligent driving of Tata truck 407 bearing registration No.HR-46-9046 (hereinafter "the offending vehicle") by



respondent No.8. The offending vehicle was owned by respondent No.8 and insured by the appellant.

3. Learned counsel for the appellant-Insurance Company at the very outset submits that the present appeal is not being pressed qua quantum of compensation awarded by the learned Tribunal. It is submitted that however, challenge to the impugned Award is on the ground of involvement of the offending vehicle. Learned counsel submits that in the present case, FIR was registered by the eyewitness Tara Chand on the date of accident itself i.e. 04.05.2006; wherein, complainant/witness/Tara Chand had mentioned registration number of the offending vehicle as HR-46-4046. It is submitted that however, by way of a supplementary statement Tara Chand had now mentioned registration number of the offending vehicle as "HR-46-9046". It is submitted that from this, it is clear that the claimants had filed the Claim Petition in collusion with the respondent No.8 and with the connivance of the Police with an ulterior motive of laying a false claim against the appellant by falsely planting the said vehicle; whereas the offending vehicle was never involved in the alleged accident.

4. Ld. Counsel reiterates that in the supplementary statement Tara Chand (PW2) had changed the first statement as recorded in the FIR and the truck number HR-46-9046 insured with the appellant was falsely introduced for the first time as the offending vehicle. It is submitted that the police in connivance with the claimants as well as respondent No.8 has falsely



implicated the insured vehicle No.HR-46-9046 in the accident, which is evident from the fact that the accident allegedly took place on 04.05.2006 and FIR in respect thereof was recorded on the same day and subsequently, supplementary statement of author of the said FIR (Mark 'A') was recorded on the same day vide which the registration number of vehicle was changed from "HR-46-4046" to "HR-46-9046". But the Police got the complete particulars of vehicle No.HR-46-4046 verified from DTO, Rohtak vide its report (Mark E) on 22.05.2006 which clearly establishes that involvement of vehicle No.HR-46-9046 is merely an afterthought. Moreover, in the criminal case, charge was framed against driver of four-wheeler bearing No.HR-46-4046. Therefore, it undoubtedly suggests that the insured vehicle No.HR-46-9046 has been involved just to grab the amount of compensation from insurer of said vehicle by the claimants in collusion with respondent No.8. Since the vehicle in question was never involved in the alleged accident, no liability could be fastened upon the appellant in respect of compensation, if any, payable to the claimants. The claim petition was not maintainable qua the appellant and was liable to be dismissed.

5. Per contra, learned counsel for the claimants vehemently opposes the submissions made on behalf of the appellant-Insurance Company and submits that there is difference of only one digit in the registration number as mentioned by the eyewitness Tara Chand in the FIR; and as mentioned in the supplementary statement recorded by him on the



very same day. It is submitted that this is a natural error which cannot adversely affect the claim of the claimants.

6. Learned counsel for the claimants further seeks enhancement of compensation by submitting that nothing has been awarded to the claimants by way of future prospects. It is further submitted that even under the conventional heads, very less amount has been given and the same deserves to be enhanced. It is accordingly prayed that the impugned Award be modified and compensation awarded to the claimants be enhanced.

7. No other argument is made on behalf of the parties.

8. I have heard learned counsel and perused the case file in detail.

9. It has firstly been contended on behalf of the appellant-Insurance Company that the offending vehicle was not involved in the accident in question as there was difference of one digit in the registration number as mentioned by the complainant in the FIR. However, I find no merit in the said contention as registration number of the offending vehicle as given by the eyewitness/complainant in the FIR (Ex.P2) is HR-46-4046; whereas the correct number is HR-46-9046. The said correction was made by the complainant on the very same day by way of supplementary statement (Mark A) recorded on 04.05.2006 itself in which correct number of the offending vehicle has been mentioned as "HR-46-9046". Record further reveals that upon the supplementary statement made by PW2 Tara Chand eyewitness, the offending vehicle was taken into possession by the Police on



05.06.2006 vide Memo (Mark B). After completion of investigation, report was filed against the said offending vehicle and respondent No.8 under Section 173 Cr.P.C. (Ex.P8). Thus, merely on incorrect mentioning of one digit in the FIR, it cannot be held that the offending vehicle was not involved in the accident in question. Such a mistake is liable to occur as admittedly the accident had taken place at 9:30 pm. Moreover, PW2 Tara Chand has clearly explained that he could not read the correct number of the offending vehicle due to the lights of the on-coming vehicles from the opposite direction, which were falling in his eyes. Thus, it cannot be said that the offending vehicle was not involved in the accident in question.

10. As regards quantum of compensation, it was the pleaded case of the claimants that the deceased was employed in a Sugar Mill, Yamuna Nagar and was also getting bonus. It was admitted by the claimant No.1/widow as PW1 that claimants No.2 and 3 were major; whereas claimants No.4 and 5 were minor. To prove income of the deceased, claimants had examined Dilbag Singh, Timekeeper, The Saraswati Sugar Mills, Yamuna Nagar as PW3 who had brought with him the summoned record regarding employment and salary/income certificate of the deceased. PW3 had deposed that the deceased was working as a labourer in the Sugar Mill. As per Income Certificates of the deceased (Ex.P3 to Ex.P6) as well as other evidence on record, it was proved that the carry-home salary of the deceased in the month of April 2006 was Rs.4342-80Ps. After making the necessary



deductions on account of sick leave, conveyance allowance, washing allowance and medical reimbursement, the learned Tribunal had taken annual income of the deceased as Rs.92,828.57Ps rounded off to Rs.93,000/-. The learned Tribunal had further made a deduction of 1/3rd towards personal expenses of the deceased. However, keeping in view the fact that there were 5 dependents of the deceased, deduction of 1/4th ought to have been made. On the basis of matriculation certificate (Ex.P11) date of birth of the deceased was 25.04.1965. As such, on the date of accident, he was over 41 years old; and therefore, an addition of 25% is liable to be made towards future prospects.

11. Learned counsel for the claimants admits that claimant No.7- father of the deceased, has expired as far back as in 2009. But Id. counsel is unable to confirm whether respondent No.6-mother of the deceased is still alive or not. Therefore, consortium is admissible to only claimant No.1/widow and claimants No.4 and 5/minor children of the deceased. Thus, the compensation granted to the claimants is re-assessed as follows: -

Head	Before the Tribunal	Re-assessed compensation
Income	Rs.93,000/- per annum	Rs.93,000/- per annum
Future prospects	-	(25%) Rs.93,000/- + Rs.23,250/- = Rs.1,16,250/-
Deduction	(1/3rd) Rs.31,000/-	(1/4 th) Rs.29,063/-
Loss of dependency	Rs.62,000/- per annum	Rs.87,188/-
Multiplier	(15) Rs.9,30,000/-	(14) Rs.87,188/- x 14 = Rs.12,20,632/-
Loss of consortium to claimant No.1/widow	Rs.5,000/-	



Loss of estate		Rs.16,500/-
Funeral expenses	Rs.2,000/-	Rs.16,500/-
Consortium to 3 claimants		Rs.40,000/- x 3 = Rs.1,20,000/-
Total	Rs.9,37,000/-	Rs.13,73,632/-

12. In view of the above discussion, the appeal filed by the Insurance Company i.e. FAO-4658-2008 is **dismissed**; and the appeal filed by the claimants i.e. FAO-4029-2008 is **partly allowed**, as above.

13. Pending application(s) if any also stand(s) disposed of.

18.08.2025

Sunena

(Nidhi Gupta)
Judge

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