IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3336-2025(O&M)
Date of decision:22.05.2025

New India Assurance Company Limited
..Appellant

Versus

Kumud Kumar and others ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashwani Talwar, Advocate
Mr. Deepak Goyat, Advocate for the appellant

Mr. Kushagra Mahajan, Advocate
for respondent no.1 to 3

ANIL KSHETARPAL, J. (Oral)

1. The Insurance Company assails the correctness of the award passed by the Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'Tribunal') on 02.04.2025 while awarding Rs.67,13,214/- on account of unfortunate death of late Smt. Vanita Narang.

2. Heard the learned counsel representing the appellant and the caveators (claimants) and with their able assistance perused the paperbook.

3. Learned counsel representing the appellant has made the following submissions:-

i) The Insurance Company issued two notices to Manjinder Singh owner of truck bearing no.PB-05T-9733 for production of route permit but there was no reply to the said notices. Hence, the recovery rights should have been given to the appellant to recover the amount from Manjinder Singh if the insured vehicle did not possess the route permit.

ii) The Tribunal has assessed the additional income of the deceased at the rate of Rs.90,000/- per month, besides, the income generated from his salary. He submits that in the absence of evidence, the Tribunal erred.

iii) The Tribunal has also erred in foisting liability to pay 30% of the compensation upon the truck owner, driver and the Insurance Company even when the truck was stationary and parked.

4. Per contra, the learned counsel representing the respondents submits that the Insurance Company has failed to prove that there was no valid route permit with the truck. He submits that onus was upon the Insurance Company to prove that fact. Moreover, the income of the deceased from coaching/tuition work is proved from the income tax returns.

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

6. There is a contract of insurance between the appellant and the truck owner. Hence, it is for the Insurance Company to plead and prove that in the absence of route permit the Insurance Company was not liable. It is not sufficient for the Insurance Company to send a notice to the owner of the truck. It should have taken active steps to verify the aforesaid facts including collecting material from the competent authority. Once the owner was ex-parte, the Tribunal was left with no choice but to hold that the Insurance Company has failed

to prove its objection. In any case, the Insurance Company, may if so advised and permitted in law, avail the remedy against the owner in this regard.

7. With regard to the second submission, it may be noticed that the deceased Smt. Vanita Nagpal was employed as a Teacher in DAV International School. She was getting basic pay of Rs.38,700/-. Apart from that her income tax returns Ex.P-10, P-11, P13 reflect business income ranging from Rs.48,000/- to Rs.1,54,000/- per annum. Thus, the Tribunal has not committed error in assessing her income as Rs.75,00/- per month (Rs.90,000/- per annum) as per additional income besides, the amount of salary.

8. With respect to the last submission, it may be noticed that the truck was parked partially on the road and partially on the road berm without switching on blinkers or parking lights. Hence, the liability to the extent of 30% foisted on the driver, who parked the vehicle, without switching on the parking lights or giving any other signal about the parked truck, is not excessive.

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

10. Hence, dismissed.

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

(ANIL KSHETARPAL)
JUDGE

22.05.2025
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No