2025:PHHC:099517

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3958-2024 (O&M)
Reserved on : 29.07.2025
Pronounced on : 05.08.2025

United India Insurance Co. Ltd. ....Appellant

VERSUS

Jyoti Devi and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Neeraj Raizada, Advocate for the appellant.

ALKA SARIN, J.

1. Present appeal has been preferred by the Insurance Company challenging the award dated 13.05.2024 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal'). The parties are being referred to as the claimants, driver, owner and the Insurance Company for the sake of clarity.

2. The brief facts relevant to the present case are that on 18.06.2022, Surender (hereinafter referred to as the 'deceased') was going on his motorcycle bearing Registration No.HR-35T-8724 alongwith Manjit, who was riding pillion. The deceased and Manjit were on their way from Banipur Chowk Bawal to their village Saban. When they reached near the Roodh Flyover, since Manjit wanted to answer the call of nature, he asked the deceased to stop the motorcycle. After stopping the motorcycle, the deceased parked it on the *kacha* berm and sat on its seat. In the meanwhile, Mahendra TUV 300 bearing registration No.RJ-06UB-6008 (hereinafter

referred to as the 'offending vehicle'), which was being driven by respondent No.7 herein in a rash and negligent manner, came from Banihari Chowk side and hit the stationed motorcycle of the deceased as a result of which the deceased fell and sustained multiple grievous injuries. The deceased was taken to hospital where he was declared brought dead. On the statement of Manjit FIR No.220 dated 18.06.2022 under Sections 279 and 304-A of the Indian Penal Code, 1860 was registered at Police Station Kasola, District Rewari. The claimants filed the present claim petition averring therein that the deceased was 30 years of age and was in a private job working as Assistant Accountant and his monthly income was ₹20,000/-.

3. The driver and owner of the offending vehicle i.e. respondent Nos.7 and 8 herein filed their joint written statement denying the factum of the accident. They however admitted that the offending vehicle was owned by Tara Chand Patwari (respondent No.8 herein) and was insured with the Insurance Company i.e. appellant herein.

4. The Insurance Company filed its separate written statement denying the factum of the accident and further that the offending vehicle was not involved in the accident. It was further the stand taken that the driver of the offending vehicle was not holding a valid driving licence as also that there was violation of the conditions of the insurance policy.

5. On the basis of pleadings of the parties the following issues were framed:

1. Whether on 18.06.2022, Surender Kumar died in the accident in question which took place due to rash and

negligent driving of the vehicle bearing registration no.RJ-06/6008 by the respondent no.1 ? OPP

2. If issue no.1 is proved, whether the claimants are entitled to any compensation, if so to what amount and from whom ? OPP

3. Whether the respondent No.1 was not holding a valid and effective driving licence at the time of accident in question, if so to what effect ? OPR

4. Relief.

6. Vide the impugned award the following compensation was awarded holding the driver and owner of the offending vehicle and the Insurance Company jointly and severally liable :

Sr. No.	Head	Compensation awarded
1.	Monthly income plus 40% future prospects	[₹16,000 + 6,400] = ₹22,400/-
2.	Deduction – 1/4th	[₹22,400 – 5,600] = ₹16,800/-
3.	Annual income	[₹16,800 x 12] = ₹2,01,600/-
4.	Multiplier – 17	[₹2,01,600 x 17] = ₹34,27,200/-
5.	Loss of estate	₹15,000/-
6.	Loss of consortium	₹40,000/-
7.	Funeral expenses	₹15,000/-
8.	10 % increase under the conventional heads	₹7,000/-
	Total Compensation	**₹35,04,200/-**
	Interest	**7% per annum**

7. Aggrieved by the same, the present appeal has been preferred by the Insurance Company.

8. Learned counsel for the Insurance Company would contend that the eye-witness was a planted witness being related to the deceased. It is further the contention that in the *ruqa* was sent by the hospital the name of the deceased was not disclosed and it was stated to be unknown. Learned

counsel would further contend that the Tribunal has erred in assessing the income of the deceased as per the DC rates which ought to have been assessed as per the Minimum Wages Act, 1948.

9. Heard.

10. In the present case, Manjit while appearing as PW-2 has clearly stated regarding the factum of the accident and qua him being present at the time of accident. The FIR was lodged on his statement on the same day i.e. 18.06.2022. Despite a lengthy cross-examination his testimony could not be shaken as has been noticed in the impugned award. The challan was proved on the record as Ex.P2 and a copy of the charge-sheet was also proved on the record as Ex.P1. The driver of the offending vehicle is facing trial. Merely because there are minor discrepancies in the statement of the eye-witness his testimony cannot be discarded. Neither the driver and owner of the offending vehicle nor the Insurance Company led any evidence to the contrary. In view thereof, the argument of learned counsel for the Insurance Company deserves to be rejected qua the factum of accident.

11. The second argument of the learned counsel for the Insurance Company that the income ought to have been assessed as per the Minimum Wages Act, 1948 and not as per the DC rates deserves to be rejected. In the present case, the deceased has left behind his widow and three minor children. The minor children have their entire life ahead of them. Their education has to be taken care of as well as the living expenses of all the claimants. The compensation cannot in any manner compensate for the loss suffered by the family of the deceased, but it should at least be sufficient to mitigate the financial difficulties the family is likely to face. Keeping in

view the rising prices as well as the fact that the education of the minor child is still at the threshold, I do not deem it appropriate to interfere in the income as assessed by the Tribunal. Hon'ble Supreme Court in the case of **Saroj & Ors. vs. IFFCO-TOKIO General Insurance Co. & Ors. [2024 (4) RCR (Civil) 881]** has upheld the application of DC rates with the following observations :

> *"9.3 The question before the High Court was not as to which yardstick to use to determine the notional income of the deceased was 'better'. Since there is nothing on record to establish that the rates notified by the District Commissioner, Rohtak, would not apply to the deceased, we find no reason to interfere with the finding of the Tribunal. Further, the testimonies of PWs 2, 5 and 6 show that he is an agriculturist who owned his own tractor and a JCB machine."*

12. Accordingly, the argument of the learned counsel for the Insurance Company that the income ought to have been assessed as per the Minimum Wages Act, 1948 stands rejected.

13. In view of the above, there is no merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
05.08.2025 **JUDGE**
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO