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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6639-2023 (O&M)
Date of Decision : 14.11.2025

Oriental Insurance Company Limited ... Appellant(s)

Versus

David @ David Barkat Masih @ David Barkat Masseh & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Vipul Sharma, Advocate for respondent Nos.1 to 3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the appellant-Insurance Company challenging the impugned award dated 15.09.2023 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'Tribunal').

2. Brief facts relevant to the present *lis* are that on 27.12.2020 at about 07.15 am, deceased – Violet David was driving an Activa Scooter and was coming from Kharar to her workplace at PGI, Chandigarh. She was being followed by her husband (claimant-respondent No.1 herein) in a car. When they reached near Jhungian Turn, Kharar, a truck bearing registration No.HP-68-6575 (hereinafter referred to as 'offending vehicle') came from behind being driven by respondent No.4 in a rash and negligent manner and at a high speed and while overtaking claimant-respondent No.1 hit the Activa Scooter

of the deceased from behind. Following the hit, the offending vehicle dragged the Activa Scooter to some distance. As a result, the deceased fell on the road and later succumbed to her injuries. FIR No.279 dated 27.12.2020 was registered under Sections 279, 304-A of the Indian Penal Code, 1860 at Police Station City Kharar, District SAS Nagar. It was the case set up that the deceased was working as Senior Nursing Officer in PGIMER, Chandigarh and she earned an income of ₹1,20,000/- per month and she was an income tax payee.

3. Respondent Nos.4 and 5 (driver and owner of the offending vehicle) filed a joint written statement denying the accident and it was stated that a false FIR had been registered. The appellant-Insurance Company filed its separate written statement raising various preliminary objections qua maintainability, jurisdiction and cause of action. It was further stated that respondent No.4 was not holding a valid driving licence and that the offending vehicle was not having a valid registration certificate, permit and fitness certificate etc. It was further stated that the deceased was not possessing a valid driving licence.

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

> 1. Whether Violet @ Violet David died on 27.12.2020 in the accident caused by respondent No.1 by driving of Truck bearing Registration No.HP-68-6875 in a rash and negligent manner ? OPP
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> 2. Whether the claimants are entitled to compensation, if so to what amount and from whom ? OPP
>
> 3. Whether respondent No.1 was not having a valid and

effective driving license at the time of accident ? OPR3

4. Relief.

5. The Tribunal on the basis of the evidence on the record held that the driver of the offending vehicle (respondent No.4 herein) was negligent and had awarded the following compensation :

Heads	Amount
Annual gross income ₹1,13,148 x 12	₹13,57,776/-
Income Tax Deduction	₹13,57,776 – 1,64,628 = ₹11,93,148/-
Addition of 15% on account of future prospects in view of age of deceased	₹11,93,148 + 1,78,972 = ₹13,72,120/-
Deduction of 1/3rd on account of personal expenditure	₹13,72,120 – 4,57,373 = ₹9,14,747/-
Multiplier of 11	₹9,14,747 x 11 = ₹1,00,62,217/-
Compensation payable on account of dependency	₹1,00,62,217/-
Loss of estate	₹16,500/-
Funeral expenses	₹16,500/-
Loss of consortium	₹44,000 x 2 = ₹88,000/-
Total	**₹1,01,83,217/-**
Interest	**7%**

6. Learned counsel for the appellant-Insurance Company would contend that there was no negligence on the part of the driver of the offending vehicle and that the claimant-respondent No.1, who is stated to be an eyewitness, never witnessed the accident. It is further the contention of the learned counsel that the deceased herself was not having a valid driving licence, hence, the Insurance Company could not have been held liable.

7 Learned counsel for respondent Nos.1 to 3 would contend that this was a case where the deceased was hit from behind. The claimant-respondent No.1 who is the eyewitness had stepped into the witness box as

PW1 and had given a detailed description of the accident and nothing could be elicited from him in the cross-examination. It is further the contention that nothing has been brought on the record to the contrary to show that there was no negligence on the part of the driver of the offending vehicle. It is further the contention that the driver of the offending vehicle (respondent No.4 herein) did not even step into the witness box in the present case. Further it is contented that the driver was charge-sheeted and is facing trial.

8. I have heard the learned counsel for the parties.

9. In the present case the argument of the learned counsel for the appellant-Insurance Company that there was no negligence on the part of the driver of the offending vehicle and that the claimant-respondent No.1 never witnessed the accident cannot be accepted. The Tribunal has noticed that PW1 – David, who is also the claimant in the present case, had given a lucid description of the accident describing the manner in which the offending vehicle was being driven in a rash and negligent manner. The Activa Scooter of the deceased was hit from behind. The driver of the offending vehicle did not step into the witness box to contradict the evidence as led by the claimants. Further nothing could be elicited in the cross examination of PW1 to even remotely suggest that he was not an eye witness. It has also come on the record that an FIR (Ex.P1) was registered against the driver and he is facing criminal trial.

10. The argument of the learned counsel for the appellant-Insurance Company that the deceased did not have a valid driving license and hence the Insurance Company could not be held liable is noticed only to be rejected. The only ground on which an Insurance Company could possibly plead that they could not have been held liable would have been if the driver of the offending

vehicle did not have a valid driving licence. The deceased not having a valid driving licence at best could be taken to be a violation of the traffic rules, however, it cannot absolve the Insurance Company of its liability.

11. In view of the above, I do not find any merit in the present appeal. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

14.11.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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