



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6075 of 2024 (O&M)

Date of Order:08.01.2025

National Insurance Co. Ltd.

..Appellant

Versus

Poonam Rani and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, JUDGE (Oral)

1. This appeal has been filed by the Insurance Company to assail the correctness of award passed by the Motor Accident Claims Tribunal, Hissar (hereinafter referred to as 'the Tribunal'), on 20.08.2024.

2. The tribunal has awarded Rs.89,97,500/- to the widow and three minor daughters of late Sh. Jaibir Singh, as their bread earner, who lost his precious life in a motor vehicular accident on 05.01.2022. It has come in evidence that Haryana Roadways bus bearing registration plate no.HR-39D-0161, while overtaking a truck came on the wrong side of the road and caused accident to the vehicle which was coming from the opposite direction, resulting in death of late Sh. Jaibir Singh, aged about 38 years. Late Sh. Jaibir Singh was working as a driver on regular basis in Water Services Division, Hissar. He was a government servant.

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

(1) It is a case of contributory negligence because there was



head on collision between jeep and the bus.

- (2) The Tribunal has erred in refusing to deduct income from the total yearly income of the deceased while calculating dependency.
- (3) Under the conventional heads, the Tribunal has erred in awarding the amount.

4. This court has considered the submissions of the learned counsel representing the appellant.

5. It is evident from the deposition of PW3-Dharambir, who was posted as SDO and travelling in the jeep driven by deceased, that the accident took place as the Haryana Roadways bus came on the wrong side while trying to overtake the truck. Hence, there is no occasion to hold that the driver of the jeep was contributory negligent.

6. With regard to the second submission, it may be noted that the Tribunal on the basis of last pay certificate Ex.P9, came to a conclusion that the total income of the deceased falls below Rs.3,00,000/- because he was paying Rs.25,000/- per month contribution towards GPF. The Insurance Company has not produced any evidence to prove that late Sh. Jaibir Singh was paying any income tax. Hence, there is no substance in the submission.

7. With regard to the last argument, it may be noted that the Tribunal has ordered payment of Rs.44,000/- each to the widow and three minor daughters on account of loss of 'spousal consortium' and 'parental consortium' which is in consonance with the law laid down by the Supreme

Court in **Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru**

Ram and others, 2018(4) RCR (Civil) 333, New India Assurance Co. Ltd.



vs. Somwati and otehrs, Civil Appeal No.3093 of 2020, decided on 07.09.2020, United India Insurance Company Ltd. vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410.

8. Keeping in view the facts of the case, this court is not inclined to interfere in the appeal, however, the appellant shall have the liberty to take all the defences if the appeal of enhancement of compensation is filed by the claimants.

9. With these observations, the appeal is disposed of.

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

(ANIL KSHETARPAL)
JUDGE

January 08, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No