

(2013) 07 P&H CK 0593
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 3719 of 2013 (O and M)

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Sukhwinder Kaur and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0593

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : D.P. Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—The Insurance Company is in appeal against the award of the Motor Accident Claims Tribunal, SAS Nagar (Mohali), (for short, "the Tribunal"), whereby a sum of Rs. 7,00,200/- has been awarded as compensation to the parents, widow and children of deceased-Dilbag Singh, who died in a road accident on 8.10.2011. Learned counsel for the appellant made two submissions, namely, addition of 30% on the income determined on account of future prospects and the question of contributory negligence. He submitted that as the issue regarding grant or non-grant of increase on account of future prospects is pending consideration before Hon'ble the Supreme Court, the amount should not have been granted and further it was a case of contributory negligence.

2. After hearing learned counsel for the appellant, I do not find any merit in the submissions made. For the purpose of addition of 30% on account of future prospects, the Tribunal placed reliance upon a latest judgment of Hon'ble the Supreme Court in SLP (C) No. 24489 of 2010--Santosh Devi v. National Insurance Co. Ltd. and others, decided on 23.4.2012. Even if the matter has been referred to a larger Bench by Hon'ble the Supreme Court, as is sought to be claimed by learned counsel for the appellant, till such time the aforesaid judgment is over-ruled, it has to be applied, hence, no illegality has been

committed by the Tribunal in granting increase on account of future prospects.

3. As far as the issue of negligence is concerned, the same has been dealt with properly by the Tribunal in paragraph 12 of the impugned award. It has been noticed that in the DDR got registered by respondent No. 7-Nazar Singh son of Ajmer Singh, owner and driver of the offending vehicle, he stated that some stray dog came in front of his motor cycle due to which he had to apply brakes suddenly. As a result of this, the motor cycle turned towards right and came in front of the motor cycle being driven by respondent No. 8-Nazar Singh son of Hazara Singh. While appearing before the court, he skipped the version regarding stray dog and stated that when he turned his motor cycle on right side, it struck against the other motor cycle, which was coming from the opposite side. Even if both the versions are considered, it is evident that the accident took place on account of the negligence on the part of respondent No. 7-Nazar Singh son of Ajmer Singh, who had turned his motor cycle towards right side all of a sudden and struck against the motor cycle being driven by respondent No. 8-Nazar Singh son of Hazara Singh. The deceased was sitting as a pillion rider thereon and died in the accident.

4. In view of the aforesaid facts, in my opinion, even the finding on the negligence also does not suffer from any infirmity. Accordingly, the present appeal is dismissed.