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**(2013) 08 P&H CK 0556**

**In the Punjab And Haryana At Chandigarh**

**Case No : FAO No. 6993 of 2011 and FAO No. 3130 of 2012**

Reliance General Insurance Co. Ltd.

APPELLANT

Vs

Smt. Lali Devi and Others <BR> Smt. Lali Devi and Another  
Vs Seva Ram and Others

RESPONDENT

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**Date of Decision : 21-08-2013**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 173  
Motor Vehicles Act, 1988 — Section 166

**Citation : (2013) 08 P&H CK 0556**

**Hon'ble Judges : Vijender Singh Malik, J**

**Bench : Single Bench**

**Advocate : Gurpreet Singh, for the insurance company, for the Appellant; J.P. Sharma, for the Respondent**

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**Judgement**

Vijender Singh Malik, J.—These two appeals have been directed against the award dated 07.09.2011 passed by learned Motor Accidents Claims Tribunal, (Fast Track Court), Narnaul (for short "the Tribunal"). Smt. Lali Devi and Billu alias Lilu had brought a claim petition u/s 166 of the Motor Vehicles Act, 1988 (for short "the Act") on the death of their son Ram Kishan in a road side accident that took place on 12.02.2010. The said claim petition has been allowed by the Tribunal in a sum of Rs. 6,58,000/-. While FAO No. 6993 of 2011 has been brought by Reliance General Insurance Company Ltd., the insurer seeking to shake off its liability in the matter, FAO No. 3130 of 2012 has been brought by the claimants for enhancement of compensation.

2. On 12.02.2010 at about 1.00 AM Ram Kumar, Ram Kishan and others were going to Delhi from Parana in a truck bearing registration No. HR-55B-9676. The truck was being driven by Ram Kumar as per traffic rules. Ram Kishan was sitting in the cabin of the said truck. At about 2.30 AM when they had crossed village Chillro, a truck bearing registration No. HR-63-A-7468 which was going ahead of their truck was being driven in a rash and negligent manner. That truck suddenly stopped and though Ram Kumar tried his best to avoid the accident but on

account of sudden stopping of the offending truck, his truck had hit the backside of the offending truck. Ram Kumar, Ram Kishan and others had suffered injuries on account of which Ram Kumar and Ram Kishan died. Ram Kishan is claimed to have been aged 23 years. He was working as a driver on truck No. RJ-32J-0303 and was earning Rs. 10,000/- per month.

3. The claim petition is resisted by the respondents. Respondents No. 1 and 2 have denied any accident to have occurred with their truck. The age, occupation and income of the deceased are also denied. The claimants are denied to deserve any amount as compensation.

4. Noticing the statement of Rajesh, PW-6 that Ram Kishan was working as a driver on his truck bearing registration No. RJ-32G-0303 and was being paid a sum of Rs. 10,000/- per month as salary, learned Tribunal has taken the income of the deceased Ram Kishan as Rs. 6000/- per month. He has taken the dependency of the claimants, the parents of the deceased at 50% of the same and has, thus, calculated the annual dependency of the claimants at Rs. 36,000/-. Learned Tribunal has adopted the multiplier of 18 and assessed a sum of Rs. 6,48,000/- as the loss suffered by the claimants in the death of Ram Kishan. Adding a sum of Rs. 10,000/- towards loss of estate and funeral expenses, a sum of Rs. 6,58,000/- is assessed as compensation.

5. Learned counsel for the appellant has contended that the offending truck was not being driven in a rash or negligent manner. According to him, the offending truck was going ahead of truck being driven by Ram Kumar and the driver of the vehicle can apply brakes for some reason but he cannot be blamed by the vehicle coming at its back, which is not maintaining safe distance from the offending vehicle and instead of being able to stop the vehicle rams into the back portion of the offending vehicle. According to him, this way it is shown that the entire responsibility for the accident is of Ram Kumar, who was driving truck No. HR-55B-9676.

6. Learned counsel for the appellant has further submitted that the income of the deceased has been taken at a very higher side. According to him, the deceased is not proved to be a truck driver. He has, moreover, submitted that at the most he could be taken as a skilled labourer and his income assessed at Rs. 6000/- is on a higher side.

7. Learned counsel for the claimants, on the other hand, has submitted that the amount taken as income of the deceased is on lower side. According to him, future prospects have not been considered and no addition to the income has been made in the name of future prospects.

8. Taking the aspect of negligence first, it has to be seen from the statement of Monu alias Mohan Singh examined as PW-3 that he is an eye witness of the occurrence. He has clearly stated that the truck going ahead of their truck bearing registration No. HR-63A-7468 was suddenly stopped and there was no indication or signal available on the truck showing that brakes have been applied

to the same. The witness has been cross-examined at length but it was not suggested to him that the brakes lights of the offending truck were working and they glowed when respondent No. 1 applied brakes to the vehicle.

9. It is the case where respondent No. 1 has been proceeded on criminal side for causing this accident. Challan has already been filed by the police in the court under the provisions of section 173 Cr.P.C. Nothing has come on the record to show that respondent No. 1 had made any protest against his false implication.

10. These circumstances show that the accident has been an outcome of rash and negligent driving of truck No. HR-63A-7468 by respondent no. 1.

11. Coming to the question of income of the deceased, Rajesh claimed the income of the deceased at Rs. 10,000/- per month. Learned Tribunal has rightly ignored his statement. It has not come on the record that Ram Kishan was not a driver. His driving licence Ex. PW6/C is on the record, which itself proves that he was a driver. So income of Rs. 6000/- for the deceased Ram Kishan is not on higher side.

12. Coming to the aspect of increase in the income on account of future prospects, I find the decision of Hon"ble Supreme Court of India in Rajesh and others v. Rajbir Singh and others : 2013 (3) RCR (Civil) 170 to be coming to the help of the claimants. In this decision, it is laid down that addition to the income has to be made in the name of future prospects even in case of victims, who were self employed or were working on fixed wages. Here the deceased was employed with a truck owner and in future his income would also have increased in consideration of which some amount has to be added in the name of future prospects to the actual income of the deceased.

13. The deceased has been 23 years of age and, therefore, the said addition has to be 50% to the income of the deceased. Adding 50% of Rs. 6000/- to it, the income of the deceased comes to Rs. 9000/-. Dependency of the claimants is 1/2 of the same and it comes to Rs. 4500/- and the annual dependency of the claimants comes to Rs. 54,000/-. Multiplying the annual dependency with 18, I find a sum of Rs. 9,72,000/- to have been lost by the claimants in the death of Ram Kishan. Adding to it, a sum of Rs. 10,000/- in the name of loss of estate and expenses on last rites, I assess a sum of Rs. 9,82,000/- as compensation in favour of the claimants.

14. In the result, the appeal bearing FAO No. 3130 of 2012 succeeds and is allowed enhancing the compensation from Rs. 6,58,000/-, to Rs. 9,82,000/- which shall be paid to the claimants with interest @ 6% per annum from the date of filing of petition till the date of realization thereof. The amount shall be shared by the two appellants in equal. The responsibility to pay compensation shall be joint and several of the respondents. However, FAO No. 6993 of 2011 fails and is dismissed with no order as to costs.