(2015) 12 P&H CK 0003

In the Punjab And Haryana At Chandigarh

Case No : FAO No. 1654 of 2012 (O&M)

Shriram General Insurance Company Limited — APPELLANT

Vs

Shashi Bala — RESPONDENT

Date of Decision : 21-12-2015

Acts Referred:
Motor Vehicles Act, 1988 — Section 166, Section 168, Section 173

Citation : (2017) 1 ACC 48

Hon'ble Judges : Ms. Ritu Bahri, J.

Bench : Single Bench

Advocate : Mr. Namit Khurana, Advocate, for the Respondent Nos. 1 and 2; Mr. Rajbir Singh, Advocate, for the Appellant; None, for the Respondent Nos. 3 and 4

Final Decision : Dismissed

Judgement

Ms. Ritu Bahri, J.(Oral) - The present appeal has been filed by the appellant-Insurance Company against the award dated 10.01.2012, passed by Motor Accident Claims Tribunal, Yamunanagar at Jagadhri (hereinafter referred to as ''the Tribunal''), whereby the claimants have been awarded a compensation of Rs. 6,52,000/-, on account of the death of Ravinder Kumar in a motor vehicular accident, which took place on 25.01.2011.

2. On 25.01.2011, Ravinder Kumar (since deceased) was coming from village Bhambholi to Jagadhri on his Activa bearing For Subsequent orders see FAO-4336-2012 No. HR-02-N-2850. He was driving the Activa at a slow speed by observing the traffic rules on his correct side and was being followed by his sons Vinit Kumar and Sanjeev Kumar on a motorcycle bearing No. HR-02-W-0840. At about 05:00 p.m., when they reached opposite the house of Advocate Khurana, Ambala Road, Jagadhri, a truck bearing No. HR-58-A-1403 being driven by respondent No. 1 in a rash and negligent manner as well as at a high speed, came from the back side and hit the Activa. Due to which, Ravinder Kumar fell down and suffered multiple grievous injuries on his head and other parts of the body. He was taken to the Civil Hospital, Jagadhri, where he was declared dead

due to the injuries sustained in this accident. The post-mortem examination on his body was conducted in that hospital on 26.01.2011.

3. In this regard, FIR No. 49 dated 25.01.2011, under Sections 279 and 304-A IPC, in respect of the accident in question, was got registered at Police Station City Jagadhri, at the instance of Vinit Kumar.

4. Consequently, the claimants-respondents filed a claim petition before the Tribunal.

Before the Tribunal, Shashi Bala appeared as PW-3 and tendered her affidavit Ex.PW-3/A, to prove the accident in question. Vinit Kumar (eye-witness) appeared as PW-2 and tendered his affidavit Ex.PW-2/A. The claimants-respondents have For Subsequent orders see FAO-4336-2012 also tendered in evidence the copies of the report under Section 173 Cr.P.C., Site Plan, Post-mortem report, FIR and the Ration Card as Ex.P-1 to Ex.P-5, respectively as well as the Death Certificate as Ex.P-6. Ultimately on the basis of the evidence led by the parties, the Tribunal has came to the conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No. 1 and the Tribunal has returned the finding on Issue No. 1 in favour of the claimants-respondents.

5. The claim petition was accepted by the Tribunal and a sum of Rs. 6,52,000/- was awarded as compensation on account of death of Ravinder Kumar along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

6. Feeling dis-satisfied with the aforesaid award, the Insurance Company has preferred the present appeal.

Learned counsel for the appellant-Insurance Company has submitted that the Tribunal has wrongly taken the income of the deceased-Ravinder Kumar as Rs. 11,000/- per month. He has further submitted that ?rd amount from the income of the deceased has wrongly been deducted by the Tribunal. The respondent No. 2 is unmarried daughter of the deceased-Ravinder Kumar and she is 29 years of age. Thus, she is not dependent upon her father and, as such, 1/2 of the amount from the income of the deceased has to be deducted. He has further argued that the The For Subsequent orders see FAO-4336-2012 Tribunal has wrongly applied the multiplier of 7, whereas, as per Second Schedule of the Motor Vehicles Act, the multiplier between the age group of 61 to 65 years, is 5.

7. On the other hand, learned counsel for respondents No. 1 and 2 has opposed the submission made by learned counsel for the appellant-Insurance Company and submitted that respondent No. 2 was dependent upon the deceased-Ravinder Kumar. He has further placed reliance on "Mothu Singh and others v. Kewalpreet Singh and others" passed by this Court in FAO No. 5850 of 2002 decided on 17.11.2015. Reference has further been made to a judgment of Hon''ble the Supreme Court of India in case "Montford Brothers of St Gabriel and

another v. United India Insurance and another etc.", 2014 STPL (Web) 53 SC.

8. I have heard learned counsel for the parties and perused the record.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident.

The deceased in the present case was 62 years of age and was retired from the post of V.L.D. He was earning a sum of Rs. 21,000/- per month i.e. Rs. 11,000/- per month from pension and Rs. 10,000/- by practicing as a veterinary doctor.

9. From the perusal of the bank passbook Mark-A, it is clear that the deceased was getting Rs. 11,287/- per month as For Subsequent orders see FAO-4336-2012 pension. Thus, the Tribunal has taken the income of deceased as Rs. 11,000/- per month. Out of which ?rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to Rs. 7,525/- per month, which came to Rs. 90,300/- per annum. Ravinder Kumar (deceased) was between the age group of 61 to 65 years at the time of the accident/death and the multiplier of 7 was applied. Thus, the claimants were found entitled to compensation of Rs. 6,32,100/-. In addition to it, further compensation of Rs. 10,000/- was awarded on account of loss of consortium and Rs. 5,000/- was awarded towards loss of estate and another sum of Rs. 5,000/- towards funeral expenses. Hence, the claimants-respondents were found entitled to total compensation of Rs. 6,52,100/- (rounded off to Rs. 6,52,000/-).

The Tribunal has rightly assessed the amount of compensation and thus, no ground for interference is made out.

So, keeping in view the above facts and circumstances, the appeal filed by the appellant i.e. Shriram General Insurance Company Limited, is hereby dismissed.