



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

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**FAO No.515 of 2013****Date of decision :-14.01.2025****The Oriental Insurance Company Ltd.****.....Appellant****Versus****Ram Krishan and another****.....Respondents****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. D.P. Gupta, Advocate  
for the appellant-Insurance Company.

None for respondent No.1.

**NIDHI GUPTA J. (Oral)**

The Insurance Company is in appeal against the Award dated 05.10.2012 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to be as 'the Tribunal') whereby the claim petition bearing MACT Case No.102 of 10.3.2011 filed under Section 163-A of the Motor Vehicles Act (hereinafter referred to be as 'the Act') has been allowed, and the sole claimant/husband of the deceased Sharda Devi/ respondent No.1 herein, has been granted compensation of Rs.5,19,200/-.

Brief facts of the case are that the on the basis of the pleadings and the evidence led by the parties, the learned Tribunal



concluded that the deceased Sharda Devi had died due to the injuries suffered by her in a motor vehicular accident that took place on 08.1.2011 due to the accident arising out of use of the motor cycle bearing registration No.CH01-AC-2877 (hereinafter referred to be as 'the offending vehicle') being driven by the respondent No.2 who is owner and driver of the said offending vehicle.

Learned counsel for the appellant-Insurance Company assails the impugned Award on the ground that as per Section 163-A of the Act maximum amount of Rs.5,00,000/- can be awarded by way of compensation; whereas, vide the impugned Award compensation of ₹5,19,200/- has been awarded.

It is further contended by learned counsel for the appellant-Insurance Company that the respondent No.2/driver and owner of the offending vehicle/motor-cycle is the son of the claimant and the deceased; and therefore, the compensation amount of Rs.5,00,000/- ought to be deducted by 50% as the accused could not have been a claimant/beneficiary of the Award.

No other argument is raised on behalf of learned counsel for the appellant-Insurance Company.

I have heard learned counsel for the appellant and perused the case file in great detail.

Perusal of the record of the case shows that the learned Tribunal on the basis of the pleadings and evidence led by the parties, concluded that the deceased Sharda Devi had died to the injuries suffered by her in a motor vehicular accident that took place on 08.1.2011 due to the use of the offending vehicle by respondent No.2.



Consequentially, compensation of Rs.5,19,200/- was awarded to the claimant/husband of the deceased/respondent No.1 herein under Section 163-A of the Act.

No doubt in a claim petition under Section 163-A of the Act, compensation is to be awarded in a structured formula strictly as provided in the 2nd Schedule to the Act, and cannot exceed Rs.5,00,000/-. However, in the present case compensation in excess of only ₹19,200 has been awarded to the claimant. In this situation, reference may be made to judgment of the Hon'ble Supreme Court in (SC) SLP No.13931 of 2017 titled as **“New India Assurance Co. Ltd. Vs. Vinish Jain & Others”**, wherein it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by the Court as, such variation in compensation is within permissible limits. The abovesaid judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in **“The Managing Director, Divisional Controller Versus Alikutty and Others”** Law Finder Doc Id # 1885188.

Even the second contention of learned counsel for the appellant-Insurance Company that respondent No.2 is son of the claimant and the deceased, and therefore deduction of 50% ought to be made in the awarded compensation, is liable to be rejected as, a perusal of Memo of Parties before this Court as also before the learned Tribunal shows that respondent No.1 is Sunil Kumar s/o Ram Kumar; whereas the claimant is Ram Krishan. Thus, there is nothing whatsoever on record to indicate that the respondent No.2 is the son of the deceased and the claimant. In any event, even if for the sake of



argument, it is assumed that respondent no.2 is the son of the deceased and the claimant, the same is liable to be rejected as the claim petition was filed only on behalf of Ram Krishan, the husband of the deceased Sharda Devi; and compensation of ₹5,19,200/- was also awarded to the said sole claimant. As such, question of deduction of 50% of the awarded amount does not arise as the entire amount has been awarded only to the sole claimant/respondent No.1. Moreover, learned counsel for the appellant-Insurance Company is unable to make out that this objection was raised by the Insurance Company before the learned Tribunal.

In view of the above noted facts, the present appeal is **dismissed.**

Pending application(s), if any, shall stand disposed of.

January 14, 2025  
Vijay Asija

( **NIDHI GUPTA** )  
**JUDGE**

Whether speaking/reasoned Yes / No  
Whether Reportable Yes / No