

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

646

FAO No.3261 of 2012
Decided on : 03.11.2017

Reliance General Insurance Co.Ltd.

... Appellant

Versus

Manoj and others

.. Respondents

FAO No.4492 of 2012
Decided on : 03.11.2017

Manoj

... Appellant

Versus

Jaivir Singh and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Tejinder K.Joshi, Advocate
for the appellant in FAO No.3261 of 2012
for the respondent No.3 in FAO No.4492 of 2012
Mr.S.S.Khurana, Advocate
for the appellant in FAO No.4492 of 2012

Avneesh Jhingan, J. (Oral)

These two appeals arise out of the award dated 7.3.2012 passed by the Motor Accidents Claims Tribunal, Rewari (for short 'the Tribunal).

2. One appeal has been filed by the Insurance Company challenging the awarding of compensation itself and the second appeal has been filed by the claimants for enhancement of the compensation. Since both the appeals arise out of the same award and are result of the same accident, these are being decided by a common order.

3 Brief facts of the case are that on 29.10.2010, Bhim Singh @

Ranbir lost his life in a motor vehicular accident. He was hit by the offending vehicle bearing registration No.HR-55L-0976 which was rashly and negligently driven. FIR No.197 dated 29.10.2010 was registered at Police Station, Kosli.

4 A claim petition under Section 166 of the Motor Vehicles Act 1988 (for short 'the Act') was moved by the adopted son of the deceased.

5 The Tribunal after considering the material produced before it, awarded a sum of Rs.1,10,000/- along with interest at the rate of 6% per annum.

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6 Learned counsel for the Insurance company contended that it was not proved that the claimant was the adopted son. He was only son of the deceased's brother. He further contends that the amount has wrongly been awarded to him.

7 Learned counsel for the claimant/appellant argued that it was duly proved by the affidavit of PW-5 Umed Singh that the claimant was the adopted son of the deceased.

8 Without going into the controversy whether it was proved or not that the claimant was the adopted son, the contention of the learned counsel for the Insurance Company can be rejected only on the ground that there is no dispute that he was a legal representative of the deceased.

9 Learned counsel for the appellant very candidly and fairly stated that it has come on record that the claimant was son of the brother of the deceased and this has been duly recorded in the Ration Card and

nothing was brought on record by the Insurance company that he was not dependent upon the deceased.

10 In such circumstances, no fault can be found in the award of the Tribunal awarding compensation on the death of Bhim Singh to the claimants. The appeal is without any merit and the same is dismissed.

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11 Learned counsel for the claimants contended that the Tribunal has awarded total amount of Rs.1,10,000/- which includes Rs.5000/- for funeral expenses which is on the lower side.

12 Learned counsel for the Insurance Company has resisted the enhancement.

13. Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Ors. SLP (Special Leave Petition (Civil) No. 25590 of 2014) decided on 31.10.2017 held as under:-

“61. In view of the aforesaid analysis, we proceed to record our conclusions:-

(i) The two-Judge Bench in *Santosh Devi* should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in *Sarla Verma*, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

(ii) As *Rajesh* has not taken note of the decision in *Reshma Kumari*, which was delivered at earlier point of time, the decision in *Rajesh* is not a binding precedent.

(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was 48 between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”