In the High Court of Punjab and Haryana at Chandigarh

FAO- 5083 of 2017(O&M)
Date of Decision: 25.8.2017

National Insurance Company

---Appellant

versus

Kailash Chander through LRs. and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Dr. Deepak Jindal, Advocate
for the appellant

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Rekha Mittal, J.

CM No.15673-CII of 2017

Prayer in this application is for condoning delay of 13 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mr. Yogesh Kharbanda, Assistant Manager (Legal), National Insurance Company, the application is allowed and delay of 13 days in filing the appeal is condoned.

FAO- 5083 of 2017

The present appeal directs challenge against award dated 3.4.2017 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali (hereinafter to be referred to as "the Tribunal") whereby compensation has been awarded in regard to death of Himanshu in a motor vehicular accident that took place on 10.2.2015.

Counsel for the insurance company has assailed the award primarily on two counts. The first submission made by counsel is that as the alleged offending vehicle stood sold by Kamal Nain Lakhani, registered owner to Balkar Singh on 17.1.2015, prior to the accident, the insurance company is not liable to pay compensation.

Another submission made by counsel is that the deceased was unmarried person aged about 24 years. Application for compensation was filed by his parents but later Kailash Chander father of the deceased passed away and his legal representatives were brought on record. It is argued that in the circumstances of the present case, multiplier is required to be applied as per age of parents in place of age of the deceased. In support of his contention, he has referred to judgment of Hon'ble the Supreme Court of India **New India Assurance Company Limited vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593**.

I have heard counsel for the appellant, perused the paper book particularly the award.

Counsel for the appellant has fairly informed that the insurance policy issued in the name of Kamal Nain Lakhani, registered owner of the vehicle was in vogue on the date of occurrence. That being so, even if the registered owner has sold the vehicle, the insurance company can not be exonerated of its liability to pay compensation by discharging its obligation to indemnify the insured. Contention raised by counsel is highly misconceived and accordingly rejected.

So far as plea with regard to multiplier adopted by the Tribunal, much water has flown since the judgment in **Smt. Shanti Pathak**

and others' case (supra) was rendered by Hon'ble the Supreme court of India in July 2007. Hon'ble the Supreme Court of India in **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** has laid down certain criteria for assessment of compensation in its effort to bring uniformity in assessment of compensation by the Tribunal and the Courts. In the said case, while dealing with the question of deduction for personal expenses of the deceased, the Court has held that if the deceased happened to be an unmarried person, admissible deduction would be 50% unless the case falls in exceptional circumstances. Taking into consideration the enunciation laid down in **Smt. Sarla Verma and others' case (supra)**, contention of the appellant is not meritorious and deserves to be rejected.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

25.8.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No