

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:12.12.2017

FAO-7311 of 2017(O&M)

Palwinder Singh

---Appellant

vs.

Ram Kumar and others

---Respondents

FAO-7312 of 2017

Palwinder Singh

---Appellant

vs.

Smt. Jyoti and others

---Respondents

FAO-7313 of 2017

Palwinder Singh

---Appellant

vs.

Smt. Santosh and others

---Respondents

FAO-2835 of 2016

Rakesh Kumar

---Appellant

vs.

Bharti Axa General Insurance Company and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Manav Bajaj, Advocate
for the appellant in FAO Nos. 7311 to 7313 of 2017
Mr. C.M.Munjal, Advocate
for the appellant in FAO-2835 of 2016

Rekha Mittal, J.

This order will dispose of FAO Nos. 2835 of 2016 and 7311 to 7313 of 2017 as these have emerged out of the same award dated 20.10.2015 passed by the Motor Accidents Claims Tribunal, Bhiwani (in short “the Tribunal”) whereby compensation has been awarded in respect of injuries sustained by Smt. Jyoti, Smt. Santosh and death of Narinder Singh in a motor vehicular accident that took place on 8.4.2013. However, the insurance company has been exonerated of its liability to pay compensation.

Counsel for the appellants has challenged findings of the Tribunal holding in favour of the insurance company that there was no policy in force on the date of accident i.e. 8.4.2013, therefore, the insurance company is not liable to pay compensation. It is argued that a serious prejudice shall be caused to the appellants in case findings recorded by the Tribunal in paras 19 and 20 of the award with regard to exoneration of the insurance company are not set aside.

Another submission made by counsel is that qua death of Narinder Singh, the Tribunal has awarded an amount of Rs. 1,25,000/- under conventional heads i.e. Rs. 1,00,000/- for loss of consortium and Rs. 25,000/- towards funeral expenses which is more than what is permissible in view of the latest judgment of Hon'ble the Supreme Court of India **National Insurance Company Limited vs. Pranay Sethi and others** 2017 SCC 1270.

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

The Tribunal in para 19 of the award has held that perusal of

copy of insurance cover note No. 32200258 (Ex. R2) shows that it was issued on 8.4.2013 at 14.40 p.m. but effective from 9.4.2013 to 8.4.2014 but the accident took place on 8.4.2013. Counsel has not disputed correctness of factual finding that contract of insurance between the insured and the insurance company commenced with effect from 9.4.2013 but the accident took place on 8.4.2013. As there was no policy in vogue on the date of accident, no error can be found in the findings that the insurance company is not liable to pay compensation. Accordingly, findings of the Tribunal recorded in paras 19 and 20 of the award are ordered to be affirmed.

This brings the Court to the submission with regard to compensation under conventional heads allowed qua death of Narinder Singh. There cannot be any dispute that in view of latest judgment of Hon'ble the Supreme Court of India **Pranay Sethi and others' case (supra)**, the claimants shall be entitled to following compensation in the given circumstances of the case:-

Loss of consortium	-Rs. 40,000/-
Expenses on funeral	-Rs. 15,000/-
Loss of estate	-Rs. 15,000/-

The compensation in regard to death of Narinder Singh is reduced to the extent of **Rs. 55,000/-** (1,25,000- 70,000), therefore, the claimants shall be entitled to compensation of **Rs.28,78,000/-**(29,33,000- 55,000).

For the foregoing reasons, the appeals are disposed of with modification qua compensation payable to the claimants in regard to death

of Narinder Singh. As appeals have been decided on merits, applications for condonation of delay would be of academic relevance only.

Before parting with this order, it is pertinent to mention that compensation awarded qua death of Narinder Singh has been reduced without notice to the claimants in order to save them from unnecessary inconvenience and expense. However, the claimants shall be at liberty to file an appropriate application in case they have any grievance to express. It is clarified that any observations made while disposing of appeals preferred by the owner/driver of the offending vehicle would not cause prejudice to right of the claimants in all the cases in case they prefer appeal(s) for enhancement.

(Rekha Mittal)
Judge

12.12.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No