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

203

**FAO No.1928 of 1999 (O&M)
Date of Decision : 25.07.2018**

Chander Kanta @ Jatti and another

...... Appellants

Versus

Asha Rani and others

...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

***

Present :- Mr. S.S.Chauhan, Advocate
for the appellants.

None for respondents No.1 & 2.

Mr. V.K.Garg, Advocate
for respondent No.3.

***

AJAY TEWARI, J. (Oral)

This is an appeal for enhancement of compensation and for modifying the award dated 30.04.1999 passed by Motor Accident Claims Tribunal, Karnal granting compensation of Rs.1,00,000/- and interest @ 12 % per annum in favour of the appellants and against the respondents.

None has entered appearance on behalf of respondents No.1 and 2.

Brief facts of the case are that on 16.07.1996 Kewal Krishan (deceased) was coming to Pathankot from Delhi travelling by bus No.DL-IV-2628 being driven by Gurvinder Singh-respondent No.2. The bus was being driven by its driver in a rash and negligent manner. He could not control the same and the bus fell in the depression on the road side due to which some of the occupants of the bus including Kewal Krishan (deceased) sustained injuries. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.2 and ordered the compensation as mentioned above.

Counsel for the appellants states that now it has been concluded that in view of the judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** the multiplier has to be on the age of the deceased. I find this to be indeed so. Consequently, it is held that multiplier of 16 has to be applied instead of 8.

Counsel for the appellants further argued that future prospects of 40% has to be granted. I find this to be indeed so. Consequently, 40% future prospects is granted.

Counsel for the appellants further argued that under the conventional heads only Rs.4,000/- has to be given and therefore, an amount of Rs.26,000/- more has to be granted under this head (because the claimants-appellants are not eligible for consortium).

Counsel for the insurance company-respondent No.3 is not in a position to deny this.

Counsel for the insurance company-respondent No.3 states that the interest which has been awarded @12% is highly excessive. In the circumstances, I reduce the interest to 8% from the date of filing of claim application till the date of payment.

Counsel for the appellants has further argued that insurance company was wrongly exonerated by the Tribunal and even where the licence is found to be fake the insurance company can not be exonerated from paying the compensation. However, recovery rights can be given to it. To support his contention, the counsel has relied upon the judgment of the Supreme Court in the matter of ***Munna Lal Jain vs. Vipin Kumar Sharma and others, 2015 (3) SCC (Civil) 315***.

Counsel for the insurance company-respondent No.3 is not in a position to deny these facts.

Consequently, it is held that the respondents are jointly and severally liable to pay compensation to the appellants and the insurance company-respondent No.3 would be entitled to recover the same from the owner.

Appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

25.07.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No