

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

FAO-1498-2002 (O&M)
Date of Decision : 14.8.2018

Balbir Kaur and others

....Appellants

vs.

Paramjit Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ajay Pal Singh, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3-insurance company.

Ms.Amarjit Kaur Khurana, Addl. A.G, Punjab
for respondent NO.4.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 15.1.2001 passed under Motor Accident Claims Tribunal, Sangrur awarding compensation of Rs. 2,88,000/- alongwith interest at the rate of 12% per annum on account of death of Didar Singh in an accident.

Brief facts of the case are that on 26.4.1996 Sh. Didar Singh was travelling in the bus which was coming from Sirhind driven by respondent No.1 When the bus reached near Madhopur Chowk the respondent No.1 suddenly turned towards Patiala side, which falls on the right side of the road at the Madhopur Chowk and collided with bus No.PB-A2-A-9725 of the Punjab Roadways, Jalandhar which was coming from Rajpura side. Passengers were taken to the hospital and Didar Singh died

before reaching the hospital. Claim petition was filed and the Tribunal had awarded the compensation to the claimants mentioned above.

At the very outset, learned counsel for the appellants-claimants points out that this is a case of enhancement where liability of the insurance company is not disputed and in the circumstances he may be exempted from trying to serve respondents No.1 and 2.

Allowed as prayed for.

The first argument of learned counsel for the appellants-claimants is that once the Tribunal had computed income of the deceased as Rs.3000/- and he left behind six dependents, the deduction of 1/3rd was excessive and there should be a cut of at most 1/4th i.e. 25%. Learned counsel for the insurance company is not in a position to deny this. Ordered accordingly.

Second argument raised by the learned counsel for the appellants is that in view of the judgment of the Supreme Court in the matter of *Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298*, the multiplier of 14 has to be applied. Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 14 has to be applied.

Third argument raised by the learned counsel for the appellants is that in view of the Constitution Bench judgment of the Supreme Court in the matter of *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009* 25% future prospects have to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 25% future prospects.

Counsel for the appellants further has argued that as per the judgment of Pranay Sethi's case (supra) under the conventional heads Rs.70,000/- is to be payable whereas the Tribunal has awarded nothing under this head. Counsel for the insurance company has very fairly accepted this fact. Consequently, I award Rs. 70,000 /- under the conventional heads.

Learned Deputy Advocate General however has pointed out that interest at the rate of 12% is highly excessive. I find this to be correct. Therefore, I award 7.5% rate of interest on the enhanced amount from the date of filing of the claim petition till the date of realization.

Learned counsel for the appellants has pointed out that all the children have now become major. In the circumstances, I direct that half the enhanced amount would fall to the share of appellant No.1 while remaining amount would be divided among appellants No. 2 to 6 equally.

The appeal stands disposed of with the abovesaid modifications.

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

14.8.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No