IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

306 **XOBJC-93-CII of 2010 and FAO-2527-2009 (O&M)**
Date of Decision :13.7.2018

Mohal Lal and another **...... Appellants**

Versus

Saroj Devi and others **..... Respondents**

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Aditya Yadav, Advocate
for the appellants.

Ms. Bhavna Grewal, Advocate
for respondents No. 1 to 3/X-Objectors.

Mr. Mrigank Sharma, Advocate
for respondent No.4-insurance company.

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AJAY TEWARI, J. (Oral)

This appeal has been filed by the appellants-owner and driver challenging the order of the Tribunal in so much as he completely absolved respondent No.-4-insurance company. Since a very limited point has been urged detailed reference to the facts is not required.

Counsel for the appellants has contended that the Tribunal held that since the appellant No.2-driver did not have a valid licence to drive commercial vehicle, the insurance company could not have been exculpated. The Supreme Court in the matter of "***Mukund Dewangan vs. Oriental Insurance Company Limited passed in 2017 (4) RCR (Civil) 111***" and subsequently in "***Jagdish Kumar Sood vs. United India Insurance Company Limited and Ors. 2018(2) RCR (Civil) 358***" held that no separate endorsement on licence is required for driving a commercial vehicle. Counsel for the respondent No.-4 insurance company has accepted this fact and is not able to cite any contrary judgment. In the circumstances, it is held that insurance company is liable to pay the compensation.

Appeal stands allowed.

The cross objections have been filed by respondents No. 1 to 3- claimants praying for enhancement of compensation. Counsel for the respondents No. 1 to 3 has argued that since age of the deceased was 27 years multiplier should be 17 as per ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298***. Counsel for the claimants-respondents No. 1 to 3 further states that 40% future prospects has to be granted and under the conventional heads total amount of Rs. 70,000/- has to be granted instead of 5,000/- as per 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.*** Counsel for the insurance company is not in a position to deny these facts.

Consequently, I award 40% future prospects and Rs. 65,000/- more under the conventional heads as mentioned in Pranay Sethi's case (supra) and fix the multiplier at 17. The apportionment, interest and management would be same as ordered by the Tribunal.

X-Objection stands disposed of with the above terms.

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

(AJAY TEWARI)
JUDGE

13.7.2018
anuradha

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No