

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

311

Date of Decision : 03.12.2018

**1. CM-23324-25-26-CII-2016 in
XOBJ-273-CII-2016 in/and
FAO No. 5268 of 2012 (O&M)**

Smt. Charan Kaur @ Channo Devi
and others

..... Appellants

Versus

Prabhu and others

..... Respondents

**2. CM-23321-22-CII of 2016 in
XOBJ-272-CII of 2016 in/and
FAO No. 5269 of 2012 (O&M)**

Raj Kumar

..... Appellant

Versus

Prabhu and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ram Pal Verma, Advocate
for the appellant/s

Mr. Inderjit Sharma, Advocate
for respondent No.2.

Mr. M.B.Jain, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

**CM-23324-25-CII-2016 in XOBJ-273-CII-2016 in FAO-5268-2012 &
CM-23321-CII-2016 in XOBJ-272-CII-2016 in FAO-5269-2012**

Allowed as prayed for.

**CM-23326-CII-2016 in XOBJ-273-CII-2016 in FAO-5268-2012 &
CM-23322-CII-2016 in XOBJ-272-CII-2016 in FAO-5269-2012**

As per the last order, counsel for the owner-driver has deposited a sum of Rs.25,000/-. Applications are dismissed as infructuous.

This order shall dispose of above mentioned two appeals.

These two appeals have been filed against the award dated 13.09.2011 passed by the Motor Accidents Claims Tribunal, Sonipat awarding a sum of Rs.4,23,200/- for the death of Resham Singh-deceased and a sum of Rs.63,900/- to Sh.Raj Kumar for the injuries caused to him. Since a very limited point has been raised further detailed reference to the facts is not necessary.

FAO No.5268-2012

Counsel for the appellants-claimants has argued that in view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 40% had to be awarded on account of future prospects. I find this to be indeed so. It is held that 40% has to be awarded towards future prospects.

Counsel for the appellants-claimants has argued that only Rs.20,000/- had been awarded under the conventional heads. He has relied upon the judgments passed in *Pranay Sethi (supra) and Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram &*

ors., 2018 (4) RCR (Civil) 333. Keeping in view both these judgments, I deem it appropriate to award Rs.40,000/- to appellant No.1 as consortium and Rs.40,000/- each as filial consortium to the appellant No.2-minor son and appellant No.3-mother. I further award a sum of Rs.30,000/- for the loss of estate and for funeral expenses. The amount of Rs.20,000/- which have been awarded under these heads would be reduced. Apart from the individual amounts awarded, 50% would go to appellant No.1-Widow, 30% would go to appellant No.2 and 20% would go to appellant No.3-mother. The share of the minor would be put in a fixed deposit and would be released only when he becomes major.

Counsel for the appellants-claimants states that interest @7.5% per annum has been granted in this case which is on the lower side. I deem it appropriate to grant interest @12% per annum on the enhanced compensation from the date of filing of claim petition till the date of payment in view of the judgment passed in *Magma General Insurance Company Ltd. (supra)*.

Appeal stands allowed in the above terms.

FAO No. 5269 of 2012

Counsel for the appellant-claimant states that nothing has been awarded under the head of permanent disability of 10% for limb. I award a sum of Rs.10,000/- for this. Apart from that I award him a sum of Rs.1,100/- more on account of pain and suffering, loss of amenities.

Counsel for the appellant-claimant states that interest @7.5% per annum has been granted in this case which is on the lower side.

I deem it appropriate to grant interest @12% per annum on the enhanced

compensation from the date of filing of claim petition till the date of payment in view of the judgment passed in *Magma General Insurance Company Ltd. (supra)*.

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

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

XOBJ-272-CII of 2016

Cross objections No.XOBJ-272-CII of 2016 are however, adjourned sine die to await the decision of the larger Bench of the Supreme Court in *Special Leave to Appeal (C) No.27787 of 2017* titled *M/s Bajaj Alliance General Insurance Co., Ltd. Vs. Rambha Devi & ors.*

In the meantime, execution shall remain stayed, in case the cross objector-owner provides security to the satisfaction of the Executing Court which would be accepted after notice to the insurance-company.

03.12.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

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