IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

XOBJC-88-CII-2013 and
FAO-2889-2013 (O&M)

Date of decision: 23.05.2018

National Insurance Company Ltd.

..... Appellant

Versus

Smt. Bir Mati @ Veer Mati and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for the appellant.

Mr. Tarun Dhingra, Advocate for
Mr. SK Tandon, Advocate
for cross-objector-respondents No. 1 and 2-claimants.

RAMENDRA JAIN, J. (ORAL)

CM-12997-CII-2013

For the reasons mentioned in the application, which is supported by an affidavit of learned counsel for the appellant-Insurance Company, the same is allowed and delay of 30 days in re-filing the instant appeal is condoned.

XOBJC-88-CII-2013 and
FAO-2889-2013 (O&M)

This judgment shall dispose of the instant appeal filed by the appellant-Insurance Company, for setting aside the impugned Award dated 21.12.2012 of the of the Motor Accident Claims Tribunal, Karnal (for short-'the Tribunal'), awarding compensation of ₹14,89,088/- to cross-objector-respondents No. 1 and 2-claimants, whereas the claimants have filed cross-objections for enhancement of compensation, modifying the impugned Award.

The sole point raised by learned counsel for the Insurance Company that in view of Section 167 of the Motor Vehicles Act, 1988 (in short-'the 1988 Act'), cross-objector-respondents No. 1 and 2-claimants are not entitled to get compensation both under the 1988 Act as well as under the Workmen Compensation Act, 1923 (hereinafter referred to as-'the 1923 Act'). Cross-objector-respondents No. 1 and 2-claimants, have already been awarded and paid a sum of ₹ 6,55,642/- under the 1923 Act, therefore, the same has to be deducted from the amount of compensation, so to be awarded to cross-objector-respondents No. 1 and 2-claimants, under the 1988 Act.

Learned counsel for cross-objector-respondents No. 1 and 2-claimants, has fairly conceded to the above submission of learned counsel for the appellant-Insurance Company. Therefore, it is held that an amount of ₹6,55,642/- already awarded to cross-objector-respondents No. 1 and 2-claimants under the 1923 Act, has to be deducted from the compensation to which they are entitled under the 1988 Act.

Both the sides are *ad idem* that this appeal has to be decided in accordance to the principles laid down in ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

As per calculations 'Mark-A' furnished by learned counsel for the cross-objector-respondents No. 1 and 2-claimants, they are entitled to total compensation of ₹26,19,408/-, on account of death of Krishan Kumar. The learned Tribunal had already awarded a sum of ₹14,89,088/- to cross-objector-respondents No. 1 and 2-claimants. That apart, they have also received ₹6,55,642/- under the 1923 Act. After deducting both the amounts aforesaid, the net enhanced amount payable to cross-objector-respondents No. 1 and 2-claimants, according to ***Pranay Sethi's case (supra),*** comes to ₹4,74,678/-(₹26,19,408/-,-₹14,89,088-₹6,55,642 =₹4,74,678/-). Learned counsel for the appellant-Insurance Company has not been able to controvert or point out any infirmity in the above calculations 'Mark-A'. Hence, the same is accepted. Meaning thereby, the cross-objector-respondents No. 1 and 2-claimants, are entitled to ₹4,74,678/- over and above the compensation awarded by the learned Tribunal, vide Award impugned herein.

The appellant-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within two months from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the cross-objector-respondents No. 1 and 2-claimants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

It is, however, made clear that non-deposit of enhanced amount of compensation within the stipulated period would entail interest @ 12% per annum with quarterly rests.

The instant appeal as well as the cross-objections filed by respondent No. 1, stand disposed of, accordingly.

May 23, 2018 **(RAMENDRA JAIN)**
rishu **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**