

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-10606-CII-2015 in/and
XOBJC-81-CII-2015 in/and
FAO-3157-2013 (O&M)
Date of Decision : 5.9.2018

Amarjit Kaur and others

....Appellants

vs.

Naib Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Mohit Jaggi, Advocate
for the appellants.

Mr. Rishav Jain, Advocate
for respondents No. 1/Cross objector.

Mr Rajesh Bansal, Advocate
for respondent No.-3.

AJAY TEWARI, J. (Oral)

FAO-3157-2013

The appeal has been filed by the claimants for enhancement against the award dated 8.12.2012 passed by the Motor Accident Claims Tribunal, Patiala awarding compensation of Rs. 8 lakhs alongwith interest at the rate of 9 % per annum on account of death of Raj Kumar in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Learned counsel for the appellants has argued that nothing has

been awarded on account of future prospects and 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* 40% future prospects have to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 40% future prospects.

The second issue raised by the counsel for the appellants is that as per the judgment of Pranay Sethi (supra) under the conventional heads only 7,500/- has been awarded and Rs.62,500/- more had to be granted. Counsel for the insurance company has very fairly accepted this fact. Consequently, I award Rs. 62,500/- more under this head.

Counsel for the insurance company however has pointed out that interest at the rate of 9% awarded by the Tribunal is highly excessive in today's regime. 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.

Out of the enhanced amount the appellants No. 1, 2 and 5 would be entitled to 30% each while appellant No.3 would be entitled to 10% share. The share of the minors be put in a fixed deposit till they attain the age of the majority.

In the circumstances, the appeal stands disposed with the abovesaid modifications.

**XOBJC-81-CII-2015
and
CM-10606-CII-2015**

For the reasons recorded, the application is allowed. Delay of 48 days in refiling the Cross objections is condoned.

Cross objections have been filed by the owner challenging the Award against recovery rights. It may be mentioned here that the Tribunal had awarded recovery rights because clerk of the DT office has appeared with the record and had shown that licence propounded by the respondent No.1 is actually been issued in the name of some other person and thus held that the driver-respondent No.2 was not in possession of valid driving licence and ordered recovery rights. Counsel for the owner-cross objector is not in a position to deny this.

In the circumstances, no fault can be found with the finding of the Tribunal regarding recovery rights. The cross-objections stand dismissed.

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

**5.9.2018
anuradha**

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No