IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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XOBJS-121-CII-2015 in/and
FAO-4361-2013 (O&M)
Date of Decision : 31.10.2018

United India Insurance Company Limited ....Appellant

vs.

Paramjit Kaur and another ....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. V.Ramswaroop, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for the respondents No.1 and 2/Cross-Objectors.

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AJAY TEWARI, J. (Oral)

This appeal and cross objections have arisen out of the award dated 16.5.2013 passed by Motor Accident Claims Tribunal, SAS Nagar, Mohali awarding compensation of Rs. 5,67,000/- alongwith conditional interest on account of death of Satpreet Singh in an accident occurred on 20.11.2010.

FAO-4361-2013

In the appeal filed by the insurance company the sole ground taken is that in the FIR, number of the vehicle was not mentioned and the insured vehicle has been falsely involved. Counsel for the claimant pointed out that this fact has been considered by the Tribunal who has noticed that the eye witness Chuhar Singh had dialed the last dialed number of the mobile of deceased and connected with mama (mother's brother) and after informing him the eye witness had gone to his home. The Tribunal held that in this view of the matter if Bhag Singh did not remember the number of the vehicle it could not completely erode the credibility of the case. I find the argument of the counsel for the claimant is more weighty, particularly since the eye witness Chuhar Singh appeared in testimony and was roundly examined but nothing has been elicited from him.

In the circumstances, the appeal stands dismissed.

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The Cross-objections have been filed by the claimants were delayed and that delay was condoned subject to condition that in case the cross-objection is allowed the claimants would not be entitled to any interest for the period of delay.

First argument raised by the learned counsel for the claimants 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 18 has to be applied (as per the age of the deceased) i.e. 19 years, instead of 13 (as per the age of the claimant). Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 18 has to be applied.

Second argument raised by learned counsel for the claimants 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*** 40% future prospects has to be granted instead of 30%. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 40% future prospects.

Third argument raised by learned counsel for the claimants is that as per the judgment of Pranay Sethi's case (supra) read with the judgment of the Supreme Court passed in the matter of ***Sureshchandra BagmalDoshi and Anr. vs. New India Assurance Company Limited and others*** reported as ***2018 (2) RCR (Civil) 841*** under the conventional heads Rs.70,000/- is to be payable whereas the Tribuanl has awarded only Rs.60,000/- under this head. Counsel for the insurance company has very fairly accepted this fact. Consequently, I award Rs. 10,000 /- more under the conventional heads.

Counsel for the claimants however has pointed out that interest at the rate of 6% awarded by the Tribunal is very low in today's regime. I find this to be correct. Therefore, I award 9% rate of interest on the entire amount from the date of filing of the claim petition till the date of realization.

It is made clear that entire compensation would be handed over to the respondent No.1-Paramjit Kaur.

The Cross-Objections stands disposed of.

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

(AJAY TEWARI)
JUDGE

31.10.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No