

FAO NO. 5640 OF 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

317/R

Date of Decision: 12.07.2018

1. FAO NO. 5640 OF 2013(O&M)

United India Insurance Co. Ltd.Appellant

versus

Baljeet Kaur and othersRespondents

2. FAO No.1737 of 2014(O&M)

Baljeet Kaur and othersAppellants

versus

Karanvir Singh and othersRespondents

3. FAO No.2735 of 2014(O&M)

Karanvir SinghAppellant

versus

Baljeet Kaur and othersRespondents

CORAM HON'BLE MR. JUSTICE AJAY TEWARI

Present Mr.Paul S. Saini, Advocate for the appellant
in FAO-5640-2013 for respondent no.2 in FAO-1737-2014
and for respondent no.4 in FAO-2735-2014.
Mr. Gopal Sharma, Advocate for appellants in
FAO-1737-2014 and for respondents no.1 to 3 in
FAO-2735-2014 and FAO-5640-2013.
Mr. HPS Virk, Advocate for the appellant in
FAO-2735-2014 and for respondent no.4 in
FAO-5640-2013.

AJAY TEWARI, J(ORAL)

These three appeals filed against the award dated 06.09.2013
passed by Motor Accident Claims Tribunal, Fatehgarh Sahib, awarding
compensation of ₹19,65,500/- on account of death of Ranjodh Singh, aged
50 years in an accident which took place on 25.04.2012, are being decided

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by this common judgment.

As per the case set up by the claimants, he (Ranjodh) was going on a motorcycle bearing No.PB-27B-2594 from village Gadhera to Sirhind, when three boys on motorcycle no. PB-23G-4198(T) hit into him while driving motorcycle rashly and negligently which resulted in his death. The Tribunal found that the accident was caused by the negligence of the driver of the motorcycle No. PB-23G-4198. It was further held that the driver being a minor could not hold a driving licence and consequently gave recovery rights to the Insurance Company. Appeal has been filed by the Insurance Company on the ground that once it was proved that the driver was a minor, it could not have been saddled even with the primary liability and should have been absolved.

Mr. Paul S.Saini, learned counsel appearing on behalf of Insurance Company very fairly pleaded that since no stay was granted and the amount was ultimately paid, his appeal bearing FAO No. 5640-2013 has become infructuous.

Ordered accordingly.

As regards the driver/owner, his appeal bearing No. 2735 of 2014 is primarily with regard to the quantum of compensation, though he has also raised a ground that the recovery rights could not have been given.

Counsel for the owner/driver is not in a position to challenge the grant of recovery rights because admittedly he was a minor and did not have a driving licence. Thus, the only claim left as regards the owner/driver is with regard to the quantum of compensation. The third appeal bearing FAO No. 1737-2014 has been filed by the claimants seeking enhancement and, therefore, these appeals have to be dealt with together.

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The claim of the owner/driver is that the amount of family pension has to be deducted from the compensation. There is no warrant for this proposition of law. Consequently, the same is rejected because family pension would be paid to the claimants even if the death had been natural. In the circumstances, FAO No. 2735 filed by the driver/owner is rejected.

As regards the claim for enhancement, the first ground raised by the counsel is that in view of the proposition of **National Insurance Company and others v. Pranay Sethi and others 2017(4) RCR Civil 1009**, 15% had to be granted on account of future prospects.

His next argument is that under the settled proposition in **Pranay Sethi's case (supra)** total amount of ₹70,000/- had to be paid under the conventional head whereas ₹25,000/- has been paid.

Learned counsel for the Insurance Company has accepted these arguments.

The rate of interest and management shall remain unchallenged.

In the circumstances, the appeal filed by the claimants bearing No.1737 of 2014 is allowed in the above terms and the remaining two appeals are dismissed.

A photocopy of the order be placed on the files of connected appeals numbered above.

Since the main cases have been decided, pending CMs, if any, shall also stand disposed of.

12.07.2018
mamta

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No