IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : July 27, 2018

1. FAO No.7568 of 2014 (O&M)

   Shri Ram General Insurance Co. Ltd. vs Menka & others

2. FAO No.1376 of 2015 (O&M)

   Menka and others vs Satbir and others

***

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

***

Present : Mr. Rajbir Singh, Advocate
for the appellant in FAO No.7568 of 2014 and
for respondent No.3 in FAO No.1376 of 2015.

Mr. Shubham Kaushik, Advocate
for Mr. Vinod Bhardwaj, Advocate
for respondents No.1 to 4 in FAO No.7568 of 2014 and
for the appellants in FAO No.1376 of 2015.

Mr. Anil Ghangas, Advocate
for respondents No.5 & 6 in FAO No.7568 of 2014 and
for respondents No.1 & 2 in FAO No.1376 of 2015.

***

Ajay Tewari, J (Oral)

This order shall dispose of both the aforesaid Appeals since they arise from the same Award of the Motor Accident Claims Tribunal. FAO No.7568 of 2014 has been filed by the Insurance Company against the Award of the Tribunal, while FAO No.1376 of 2015 has been filed by the claimants for enhancement of compensation.

C.M No.3846 CII of 2015 in
FAO No.1376 of 2015

For the reasons recorded, this application is allowed and delay of 159 days in filing the appeal is condoned. It is, however, clarified that the appellants would not be entitled to interest for the said period, in case the compensation is enhanced.

FAO Nos.7568 of 2014 & 1376 of 2015

Brief facts are that on 13.11.2011, Shintu (since deceased) and one Ashok Kumar were going on their respective bicycles and at about 3.30 pm when they were on Dadri-Loharu road 300 yards away from Loharu Gas Godown, the offending truck being driven by Satbir came from the rear side and struck against the bicycle of the deceased. As a result of this accident, the deceased fell on the ground and the truck also turned turtle and the deceased came under the truck and lateron died.

The Tribunal held the driver of the offending vehicle responsible in causing the accident. Income of the deceased was assessed at ₹ 6000/- per month and future prospects were taken to be 50%. Since there were three members dependent on the deceased, living expenses were taken as one third, and 18 was applied as multiplier. A sum of ₹ 25,000/- towards funeral expenses and a sum of ₹ 1 lakh towards loss of consortium to the widow were also awarded. In all, a sum of ₹ 14,21,000/- was awarded and rate of interest awarded was 6% p.a.

Counsel for the Insurance Company in FAO No.7568 of 2014 has argued that the income of the deceased was taken to be on higher side. No evidence was adduced by the claimants with respect to the income of the deceased. As per him, the Tribunal should have assessed the income as per the notification of the State of Haryana under the Minimum Wage Act. I find this to be correct and take the monthly income of the deceased as ₹ 5000/-.

Counsel for the Insurance Company has further argued that the Tribunal has erred in taking 50% as future prospects. In view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, the same could not be more than 40%, and further there should be reduction in the amount awarded under the conventional head. I find this also to be correct and take the future prospects as 40% and deduct ₹ 55,000/- under the conventional head.

With these modifications in the Award, FAO No.7568 of 2014 is disposed of.

Counsel for the appellants in FAO No.1376 of 2015 has argued that the Tribunal has awarded rate of interest as 6% pa which is on lower side. I am in agreement with the counsel and grant 7-1/2% pa from the date of claim application till realization. It is made clear that the appellants would not be entitled to interest for 159 days by which this appeal was delayed. With this modification in the Award, the present appeal stands disposed of.

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

(AJAY TEWARI)
JUDGE

July 27, 2018
`kk'

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No