

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-1222-CII-2018 in/and
X-Objection-18-CII-2018 in/and

CM-18941-CII-2016 in/and
FAO-5509-2016 (O&M)

Date of Decision : 26.10.2018

Royal Sundaram Alliance Insurance Co. Ltd.

..... Appellant

Versus

Smt. Sheela Devi and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. D.K. Parjapati, Advocate
for Mr. R.S. Madan, Advocate
for the Applicant-Appellant.

Mr. Rakesh Nehra, Advocate
for the Applicant-X-Objectors-Respondents No.1 to 3.

None for respondent No.4.

AJAY TEWARI, J. (ORAL)

CM-18941-CII-2016 and CM-1222-CII-2018

Both the counsel states that they have no objection if the application filed by the other side for condoning the delay in refiling is condoned. For the reasons recorded, the applications are allowed. Delay of 381 days in refiling the appeal and delay of 358 days in refiling the x-objections is condoned.

X-Objection-18-CII-2018(O&M) and FAO-5509-2016 (O&M)

This Appeal and X-Objection have been filed against the award dated 28.04.2015 awarding compensation of Rs.11,86,000/- alongwith interest @ 6% p.a. to the X-Objectors-respondents No.1 to 3 on account of death of Ram Avtar in a motor vehicular accident which took place on 08.08.2013. The appeal has been filed by the insurance company for reducing the compensation amount and the x-objection has been filed by the claimants for enhancement of compensation.

Since very limited issue of quantum of compensation has been raised by both the counsel further detailed reference to the facts would not be required.

Counsel for the appellant-insurance company has argued that under the conventional heads a sum of Rs.1,30,000/- has been awarded whereas it could only be Rs.70,000/- in view of the judgment of the Supreme Court passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.***

Counsel for the x-objectors has accepted this argument. However, he has argued that as per the judgment of the Supreme Court passed in ***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018,*** the respondent No.2-daughter is also entitled to Rs.40,000/- towards filial consortium.

I find merit in both the arguments. Therefore, there is an excess of Rs.20,000/- under the conventional heads and I deduct the same.

Counsel for the appellant-insurance company has further

argued that the deceased was not proved to be a skilled labourer or anything else and consequently his income has to be taken as of unskilled labourer and income taken by the Tribunal @ Rs.12,000/- p.m. is excessive since on the relevant date the income could not be more than Rs.5500/- p.m.

On the other hand, counsel for the x-objectors has argued that the Tribunal erred in not granting future prospects of 10% as per the judgment of Supreme Court in Pranay Sethi's case (supra).

I find merit in both the arguments. Consequently, I deduct the income to Rs.5500/- p.m. but grant future prospects of 10% over the same.

Counsel for the x-objectors has further argued that the interest @ 6% is on the lower side as per the judgment of the Supreme Court in Magma General Insurance Company Ltd.'s case (supra).

I find this to be indeed so. Consequently, I direct that the entire compensation amount be given alongwith interest @ 12% p.a. from the date of filing of the claim petition till the date of realization.

Counsel for the x-objectors further states that the compensation amount may have been deposited but the same has not yet been disbursed to them.

In the circumstances, I direct that the wife and daughter would be entitled to 50% each of the compensation amount. I further direct that half of the amount of both the claimants be put in a fixed deposit for a period of three years and they would be entitled only to interest accrued thereon. I further direct that an amount of Rs.25,000/- be remitted back to the Executing Court.

Both the Appeal and the X-Objection are disposed of in the above terms.

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

October 26, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No