**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

113 (3 cases)

Date of Decision : 13.08.2018

1) FAO-7724-2017 (O&M)

Reliance General Insurance Company Ltd. ...... Appellant

Versus

Smt. Saripan and others ..... Respondents

2) FAO-7726-2017 (O&M)

Reliance General Insurance Company Ltd. ...... Appellant

Versus

Smt. Farjana and others ..... Respondents

3) FAO-7734-2017 (O&M)

Reliance General Insurance Company Ltd. ...... Appellant

Versus

Sakul and others ..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

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AJAY TEWARI, J. (Oral)

These three appeals have been filed against a common award arising out of a single accident. All the appeals are decided by the common order.

There are two death cases and one case for damage to motorcycle. The admitted facts are that two persons were sitting on the motorcycle when the offending tractor came being driven in a rash and negligent manner and hit into the motorcycle causing the death of both of those persons and also damaged the motorcycle.

The first argument of the counsel for the appellant, which is common in all the three appeals, is that in this case at the time of accident a trolley was attached to the tractor but that trolley was not insured and this fact has not been considered by the Tribunal.

Notice of motion.

Mr. Ashish Gupta, Advocate has entered appearance on behalf of the claimants-respondents in all the appeals. He has argued that the issue of insurance has no relevance in the present case. As per him, had it been a case where the persons had been run over by the wheel of the trolley or the persons had been hit by the trolley, the issue of insurance of trolley would have become important but in the present case it was a straightforward situation where the tractor came and struck into a motorcycle which was standing on the side of the road and, therefore, whether the trolley was insured or not would have no relevance once it was proved that the tractor was insured and the driver had a license.

I am more impressed with the argument of the counsel for the claimants-respondents. Whether the trolley was independently insured or not would hardly germane to the facts of the present case.

The second contention of the counsel for the appellant is that as regards the death of Nosad, the Tribunal has erred in granting a sum of Rs.1,25,000/- under the conventional heads as not more than Rs.30,000/- can be awarded under this head in view of the judgment of the Supreme Court in the matter of ***National Insurance Co. Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***. He has further argued that apart from this the Tribunal has erred in granting 50% future prospects whereas in view of the judgment of the Supreme Court in Pranay Sethi's case (supra) it could only be 40%.

Counsel for the claimants-respondents has fairly accepted these facts but stated that the Tribunal has erred in directing to deposit a portion of the compensation amount in a fixed deposit whereas there is no requirement for the same in the facts and circumstances of the case.

Counsel for the appellant has fairly accepted this fact.

In the circumstances, the appeal bearing FAO No.7724 of 2017 (O&M) is allowed to the extent that the claimants-respondents would be entitled only to a sum of Rs.30,000/- under the conventional heads and the future prospects would be computed as 40% instead of 50%. Further it is directed that the entire compensation amount would be released to the claimants – respondents. The other aspects of the award would remain unchanged.

Coming to the facts of the second case i.e. as regards the death of Tarif Khan @ Tarif, counsel for the appellant has argued that the Tribunal has erred in granting a sum of Rs.2,25,000/- under the conventional heads as not more than Rs.70,000/- can be awarded under this head in view of the judgment of the Supreme Court in the matter of ***National Insurance Co. Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***. He has further argued that apart from this the Tribunal has erred in granting 50% future prospects whereas in view of the judgment of the Supreme Court in Pranay Sethi's case (supra) it could only be 40%.

Counsel for the claimants-respondents has fairly accepted these facts but stated that the Tribunal has erred in directing to deposit a portion of the compensation amount in a fixed deposit whereas there is no requirement for the same in the facts and circumstances of the case.

Counsel for the appellant has fairly accepted this fact.

In the circumstances, the appeal bearing FAO No.7726 of 2017(O&M) is allowed to the extent that the claimants-respondents would be entitled only to a sum of Rs.70,000/- under the conventional heads and the future prospects would be computed as 40% instead of 50%. Further it is directed that the entire compensation amount would be released to the claimants – respondents. The other aspects of the award would remain unchanged.

Coming to the facts of the third case i.e. as regards the damage of motorcycle, counsel for the appellant has argued that the compensation for damage of motorcycle is on the higher side.

In my opinion, the compensation granted for damage of motorcycle is appropriate. No ground for interference is made out. In the circumstances, the appeal bearing FAO No.7734 of 2017 (O&M) is dismissed.

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

(AJAY TEWARI)
JUDGE

August 13, 2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No