IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
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XOBJC No.30-CII of 2018 in/and
FAO No.594 of 2018 (O&M)
Date of Decision:27.02.2018

United India Insurance Co. Ltd., Ludhiana .....Appellant

Vs.

Shailja Verma and others .....Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for
the petitioner.

Mr. Ankur Gupta, Advocate for
cross objectors/ respondents No.1
to 5.

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RAMENDRA JAIN, J. (Oral)

Through this judgment, the appeal filed by the Insurance Company and cross objections filed by the respondents- claimant are being disposed of.

In nutshell, one Ravi Verma aged around 38 years died on 25.01.2016 in a motor vehicle accident. His parents, widow and two minor children filed a claim petition under Section 166 of the Motor Vehicles Act before the Motor Accident Claims Tribunal (for short, `the Tribunal'), Ludhiana which has been allowed vide impugned award dated 12.10.2017 thereby granted compensation of ₹1,14,70,780/- to respondents No.1 to 5.

Being aggrieved, respondent No.3- Insurance Company filed the instant appeal for reduction of the compensation amount in view of **National Insurance Co. Ltd. v. Pranay Sethi and others**, 2017(4) RCR

(Civil) 1009 and for holding the contributory negligence of the deceased in which respondents No.1 to 5 – claimant have filed the cross objections enhancement of the compensation award.

During course of arguments, both the sides have agreed that the compensation in the instant case has to be calculated in terms of **Pranay Sethi's case (supra)** case. According to which the compensation amount comes to ₹1,10,74,765/-, therefore, the compensation amount of ₹1,14,70,780/- granted by the Tribunal below is liable to be reduced to ₹1,10,74,765/-.

As far as question of contributory negligence of the deceased Ravi Verma is concerned, the appellant- Insurance Company did not lead any evidence in this respect. The learned Tribunal in para No.20 of the impugned award has dealt with this issue reproduced hereunder for ready reference:-

> "As far as contributory negligence is concerned, the Truck (offending) has been parked on the wrong side. The month of Accident is January when there usually is fog, which is also visible in the photograph. The charges against the respondent No.1 includes rash and negligent act on his part, which includes stopping the vehicle on the wrong side of the road. Therefore, this court is of the opinion that there is no contributory negligence on the part of the driving of the vehicle of deceased. The documents including Driving License, Registration Certificate, Route Permit and Fitness Certificate have been found to be correct in the verification by the

respondent No.3 Insurance Company. The vehicle on the date of accident was duly insured with respondent No.3 Insurance Company. Therefore, it is the respondent No.3 Insurance Company, who is liable to pay compensation.”

Learned counsel for the appellant- Insurance Company has not been able to point out any infirmity or perversity in the aforesaid finding of the learned Tribunal. Therefore, the plea of the appellant- Insurance Company qua contributory negligence of the deceased is rejected.

In view of the discussion above, the impugned award is modified. Respondents No.1 to 5 – claimants are held entitled to ₹1,10,74,765/- which shall be deposited by the Insurance Company within one month from today after deduction of 70% of the compensation amount which has already been deposited and disbursed to respondents No.1 to 5 – claimant. The same shall be disbursed to the respondents No.1 to 5 – claimants as per their ratio arrived at by the learned Tribunal in accordance with law against proper receipt and identification.

February 27, 2018 **(RAMENDRA JAIN)**
renu **JUDGE**

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No