

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO-3240-2012 (O&M)

The New India Assurance Company Ltd.

..... Appellant

Versus

Suman and others

..... Respondents

2. FAO-3241-2012 (O&M)

The New India Assurance Company Ltd.

..... Appellant

Versus

Kishori Lal and others

..... Respondents

3. FAO-10114-2014 (O&M)

Kishori Lal and others

..... Appellants

Versus

Vikram and others

..... Respondents

4. FAO-10115-2014 (O&M)

Suman and others

..... Appellants

Versus

Vikram and others

..... Respondents

Date of decision: 28.08.2019

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Deepak Suri, Advocate
for the appellant (in FAO Nos. 3240 and 3241-2012) and
for respondent No. 4 (in FAO Nos. 10114 & 10115-2014).

Mr. Aditya Yadav, Advocate
for the appellants (in FAO Nos. 10114 & 10115-2014) and
for respondents No. 1 to 4 (in FAO Nos. 3240 & 3241-2012).

Mr. JP Sharma, Advocate
for respondents No. 5 & 6 (in FAO Nos. 3240 & 3241-2012) &
for respondents No. 1 & 2 (in FAO Nos. 10114 & 10115-2014).

RAMENDRA JAIN, J. (ORAL)

At the joint request of learned counsel for the parties, two other connected appeals bearing FAO Nos. 10114 and 10115-2014, lying admitted, arising out of the impugned Award, filed by the claimants are also taken up for hearing today itself.

Above titled four appeals are being disposed of by this common judgment, being arisen out of a single Award dated 19.01.2012 of the Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal'), awarding compensation to the tune of ₹5,25,000/- to the appellant-claimants (in FAO-10114-2014) and ₹6,58,000/- to the appellant-claimants (in FAO-10115-2014), against the death of Kamla and Sunil, respectively, in a motor vehicular accident occurred in the evening of 16.06.2010.

Out of the above mentioned four appeals, two have been filed by the claimants (FAO Nos. 10114 and 10115-2014) for enhancement of compensation, modifying the impugned Award, whereas other two i.e FAO Nos. 3240 and 3241-2012, by the Insurance Company for reduction in the aforesaid awarded amount.

Both the parties are *ad idem* that these appeals are to be decided in accordance with the principles laid down in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.**

Learned counsel for the appellant-claimants (in FAO-10114 and 10115-2014) has produced two calculations (Mark A) which are taken on record, in consonance with the dictum laid down by the Apex Court in **Pranay Sethi's case (supra).** According to the same, total amount of compensation payable to claimant-appellants in FAO-10114-2014 comes to ₹6,12,000, less ₹5,25,000/- and in FAO-10115-2014 ₹7,50,000/- less ₹6,58,000/-, already awarded by the learned Tribunal. Meaning thereby, the claimant-appellants in FAO-10114-2014 are entitled to ₹87,000/-, whereas claimant-appellants in FAO-10115-2014, are entitled to ₹92,400/- over and above the compensation awarded by the learned Tribunal.

Learned counsel for respondent No. 3-Insurance Company has not been able to controvert or point out any infirmity in the above calculations (Mark-A). Hence, the same are accepted.

In view of the above, the claimant-appellants in FAO-10114-2014 are held entitled to compensation of ₹87000/- over and above the amount of ₹5,25,000/-; whereas claimant-appellants in FAO-10115-2014 are held entitled to compensation of ₹92,400/- over and above the amount of ₹6,58,000/-, already awarded by the learned Tribunal vide Award impugned herein. Respondent No. 4-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of

compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

In view of the above, FAO Nos. 10114 and 10115-2014, filed by the claimants are disposed of accordingly, while dismissing the appeals bearing FAO Nos. 3240 and 3241-2012, filed by the Insurance Company.

August 28, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No