

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO-1747-2015 (O&M)

Harbhajan Singh and another

..... Appellants

Versus

Davinder Singh and others

..... Respondents

2. FAO-6282-2015 (O&M)

Davinder Singh and another

..... Appellants

Versus

Harbhajan Singh and others

..... Respondents

Date of decision: 16.12.2019

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. NK Manchanda, Advocate
for the appellants (in FAO-1747-2015) and
for respondents No. 1 and 3 (in FAO-6862-2015).

Mr. Sukhmeet Singh, Advocate
for respondents No. 1 to 3 (in FAO-1747-2015) and
for the appellants (in FAO-6862-2015).

Mr. AS Sidhu, Advocate
for respondent No. 4-Insurance Co. (in FAO-1747-2015) and
for respondent No. 3 (in FAO-6862-2015).

RAMENDRA JAIN, J. (ORAL)

CM-5176-CII-2015 in FAO-1747-2015 and
CM-21353-CII-2015 in FAO-6862-2015

For the reasons explained in both the applications which are
supported by an affidavit, the same are allowed. Delay of 91 and 239

days in filing FAO Nos. 1747 and 6862-2015, respectively, is condoned.

FAO Nos. 1747 and 6862-2015

Through this common judgment, two above titled appeals i.e. one bearing FAO-1747-2016 filed by the driver and owner of offending truck bearing registration No. PB-03-P-9246, for setting aside impugned Award dated 27.08.2014 of the Motor Accident Claims Tribunal, Moga (for short-'the Tribunal'), qua recovery rights given to respondent No. 4-Insurance Company against them and another by the claimants (FAO-6862-2015), for enhancement of compensation, modifying the impugned Award, are being disposed of. For brevity, the facts are being extracted from FAO-1747-2015.

Briefly, on 07.11.2011, Jaswinder Kaur, aged around 52 years, a household lady died in a motor vehicular accident allegedly caused by appellant No. 1-Harbhajan Singh, while driving offending truck in a rash and negligent manner bearing registration No. PB-03-P-9246, owned by appellant No. 2-Kamaljit Singh and insured with respondent No. 4-Insurance Company.

Being aggrieved of her death, respondent-claimants No. 1 to 3, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as-'the Tribunal'), before the Tribunal, for grant of compensation. After holding trial, vide impugned Award dated 27.08.2014, learned Tribunal awarded a sum of ₹4,16,000/- along with interest @ 6% per annum from the date of filing claim petition till realization to respondent-claimants No. 1 to 3, giving recovery rights to respondent No. 4-Insurance Company, to recover the aforesaid amount

from the appellants-driver and owner, holding that at the time of accident, appellant No. 1-Harbhajan Singh, was not having a valid and effective driving licence, in violation of the terms and conditions of the insurance policy.

Learned counsel for the appellants (in FAO-1747-2015) *inter alia* contends that learned Tribunal has failed to appreciate that the accident occurred on 07.11.2011. Driving licence of appellant No. 1 was valid up to 02.11.2011 and was immediately renewed on 15.11.2011 i.e. within 13 days. The statutory period given in the Act is one month for renewal of a driving licence. Appellant No. 1 got renewed his driving licence well within the statutory period of one month. Thus, no recovery rights could have been given to respondent No. 4-Insurance Company against them.

On the other hand, learned counsel for respondent No.4-Insurance Company, has not been able to refute the above submissions.

Thus, accepting the submissions of learned counsel for the appellants in toto, their appeal bearing FAO-1747-2015, is allowed. It is held that respondent No. 4-Insurance Company shall be liable to make payment of entire compensation to respondent-claimants No. 1 to 3.

In appeal bearing FAO-6862-2015, filed by the claimants, learned counsel for both the parties are *ad idem* that learned Tribunal has erred in granting only ₹20,000/- under the conventional head which according to judgment of the Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, would have been ₹ 70,000/-. Therefore, an amount of ₹50,000/-

under conventional head is liable to be increased.

In view of discussion made above, both the above titled appeals are disposed of. The claimants are held entitled to compensation of ₹50,000/- more over and above the amount of ₹4,16,000/-, 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, less the period of 330 days for delayed filing of appeal bearing FAO-6862-2015, for onward disbursement to the claimants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

Non-deposit of aforesaid enhanced amount of compensation within the stipulated period would entail interest @ 15% per annum, with quarterly rests, after one month.

December 16, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No