

(1) FAO No.3857 of 2016 (O&M)
Date of Decision: 14.11.2019

Iffco Tokio General Insurance Company Limited

.....Appellant

Versus

Sandeep Kaur and others

.....Respondents

(2) FAO No.5687 of 2016

Sandeep Kaur and others

.....Appellant

Versus

Sham Lal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Ankur Gupta, Advocate
for the appellant in FAO-3857-2016 and
for the respondent/insurance company in FAO-5687-2016.

Mr. Ashish Gupta, Advocate
for the appellants in FAO-5687-2016 and
for respondent Nos.1 and 3 to 5 in FAO-3857-2016.

None for respondent Nos.9 and 10.

NIRMALJIT KAUR, J. (ORAL)

Both the aforementioned appeals shall stand decided by this common order as the award dated 16.03.2016, passed by the Motor Accident Claims Tribunal, Patiala (for short, the Tribunal) and issue is identical.

Appeal bearing FAO-3857-2016 is filed by the insurance company. It is contended by learned counsel for the appellant/insurance company that the amount awarded by the Tribunal is on the higher side. The only argument raised by learned counsel for the appellant/insurance

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company qua quantum is that claimant/respondent No.6-Kuldeep Kaur was the second wife and respondent Nos.7 and 8 are the minor children of the deceased and respondent No.6.

The said argument has no merit. It is not disputed and well settled that respondent Nos.7 and 8 being minor children of the deceased, even though may not be out of a valid marriage, have an equal right and were dependents on the deceased. Moreover, nothing has been granted to respondent No.6. Therefore, the appellant/insurance company can have no grievance on that account. The said argument deserves to be rejected.

The second argument is qua the amount granted under the conventional heads. It is stated that as per the judgment rendered by Hon'ble the Apex Court in case National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680, only Rs.70,000/- should have been granted.

Learned counsel for the respondents however on the other hand has stated that respondents/claimants have filed appeal bearing FAO-5687-2016 claiming enhancement of compensation on the same very head by relying on the judgment rendered by Hon'ble the Apex Court in case Magma General Insurance Co. Limited Versus Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333, wherein, Rs.40,000/- is granted to each of the claimants.

In the present case, five children are minors, therefore, in case the amount is reduced taking into account the judgment rendered in the case of Pranay Sethi (supra) and on the other side is increased taking into account the judgment rendered in the case of Magma (supra), there may not

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Accordingly, this Court does not find any interference in the award dated 16.03.2016 passed by the Tribunal.

Both the appeals are accordingly dismissed.

14.11.2019

sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No