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

Cross Objection No.21-CII of 2016 (O&M) in/and
FAO No.5286 of 2015 (O&M)
Date of decision: 21.11.2019

Reliance General Insurance Company Ltd.

.......Appellant

versus

Geeta Devi and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Subhash Goyal, Advocate,
for the appellant.
Mr. A.K. Yadav, Advocate,
for respondents No.1 to 3-Cross-objectors

RAMENDRA JAIN, J. (ORAL)

Through this appeal, Insurance Company has assailed award dated 11.03.2015 of the Motor Accident Claims Tribunal, Rewari (in short 'the Tribunal') on the ground that the car in which the deceased was travelling, had hit the offending stationary truck bearing registration No.RJ-07GA-3631 parked in the middle of the road from behind. Therefore, deceased driver of the car was also required to be held liable for contributory negligence to the extent of 50%.

Respondents No.1 to 3-claimant have also filed cross-objections for enhancement of compensation, modifying the impugned award.

Heard.

Hon'ble Supreme Court in ***Achint Saini and another v.***

Oriental Insurance Company Ltd. and others, *2018(3) SCC 365* dealing with the similar issue observed that the driver, who had hit stationary truck parked in the middle of the road, cannot be held liable for contributory negligence. In view of settled proposition of law, appeal of the Insurance Company is dismissed.

Both the parties are *ad idem* that Cross-objections filed by respondents No.1 to 3 – claimant be decided in accordance with the principles laid down in ***National Insurance Company Ltd. v. Pranay Sethi and others***, *2017(4) RCR (Civil) 1009.*

As per calculation furnished by cross-objector-claimants, which is taken on record as Mark 'A', the total amount of compensation payable to the respondents No.1 to 3- claimant, according to ***Pranay Sethi's*** case (supra), comes to ₹10,41,040/- less ₹9,46,000/-, already awarded by the Tribunal to them. Meaning thereby, claimants are entitled to ₹95,040/- more, over and above the compensation awarded by the Tribunal.

Learned counsel for appellant-Insurance Company has not been able to controvert or point out any infirmity in the above calculations (Mark-A). Hence, the same is accepted.

In view of above, the respondents No.1 to 3-claimant are held entitled to compensation of ₹95,040/- more, over and above the amount of ₹9,46,000/- already awarded by the Tribunal to them, vide award impugned herein. Appellant – Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the Tribunal within one month from today, along with upto-date interest @ 7.5% per annum from the date of filing claim petition till realization, for onward disbursement to respondents No.1 to 3-claimant, 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% per annum from the date of expiry of one month.

Cross-objections stand disposed of accordingly.

(Ramendra Jain)
Judge

November 21, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No