

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7651 of 2015(O&M)
Date of decision: 25.09.2019

Indu Dhiman and others

...Appellants

V/s.

Baldev Raj and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sharad Aggarwal, Advocate for the appellants.

Mr. Rajiv Sharma, Advocate
for the cross-objectors/respondent No.3/insurance co.

RITU BAHRI, J. (Oral).

CM-1468-CII-2018

Application for exemption from depositing Rs.25,000/- is
dismissed.

CM-1469-CII-2018

Application is allowed. Cross-objections and receipt are taken
on record.

CM-1470-CII-2018

For the reasons recorded in the application, the same is allowed
and the delay of 308 days in filing the cross-objections is condoned.

XOBJC-21-CII-2018

The insurance company has filed cross-objection in the year
2017 and is seeking modification of award dated 10.07.2015 in view of
judgment of Hon'ble the Supreme Court passed in *National Insurance
Company Limited Vs. Pranay Sethi and others*, Special Leave Petition

(Civil) No.25590 of 2014. Keeping in view that the award was passed in 2015, the claimants must have got payment of the compensation, no further modification can be done and the cross-objections are dismissed.

FAO-7651-2015

The claimants have come up in appeal against the award of the tribunal dated 10.07.2015 whereby they have been awarded compensation of Rs.14,37,044/- on account of death of Satish Kumar who died in a road accident which took place on 19.06.2014.

Brief facts of the case are that on 19.06.2014 Satish Kumar, his son Lakshay Dhiman and Vipin Kumar had gone to Babain for some personal work. Satish Kumar was driving his motorcycle make TVS Sport while Lakshay Dhiman and Vipin Kumar were on motorcycle bearing registration No. HR-07P-8051. After completion of their work Satish Kumar and Lakshay Dhiman and Vipin Kumar were returning on their motorcycles from Babain to Ladwa and at about 9:45 p.m. reached near village Kandoli turn on Babain-Ladwa road in the meantime, offending Scorpio Jeep bearing registration No. HR-65-9644 driven by respondent No. 1 at a very high speed and in rash and negligent manner came from the opposite side. After seeing the offending Scorpio Jeep Satish Kumar lowered down the speed of his motorcycle and went on the extreme left hand side on kacha portion but the Scorpio Jeep struck against his motorcycle by coming on the wrong side of the road due to which Satish Kumar fell down and suffered multiple and grievous injuries and died on the spot. Consequently, the claimants-appellants filed a claim petition before the tribunal.

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of negligent driving of respondent No. 1. This finding has been rightly given in favour of the claimants keeping in view FIR No. 52 dated 20.06.2014, under Sections 279 and 304A IPC was registered against respondent No. 1 on the statement of Lakshay Dhiman (Ex.P5) and report under Section 173 Cr.P.C. (Ex.P1).

The deceased was 52 years of age. The tribunal had assessed monthly income of the deceased as Rs.10,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	10,000/-p.m.
(ii)	15% of (i) above to be added as future prospects	10,000+1,500=Rs.11,500/-
(iii)	1/3rd (ii) deducted as personal expenses of the deceased	11,500-3,833=Rs.7,667/-
(iv)	Compensation after multiplier of 11 is applied	7,667X12X11=Rs.10,12,044/-
(v)	Transportation and Funeral expenses	Rs.25,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection	Rs.1,00,000/-
	TOTAL COMPENSATION AWARDED	Rs.14,37,044/-

It is pertinent to mention here that the tribunal had wrongly totalled the compensation on all heads as Rs.14,37,044/-,however, the total compensation comes to Rs.13,37,044/-. At this stage, this mistake cannot be rectified. In this way, the claimants were found entitled to total compensation of Rs.14,37,044/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for insurance company and perused the case file. The award has been passed in the year 2015 and the compensation has been given as per the law prevalent at that time. Hence,

no further modification is required to be made keeping in view the judgment of Hon'ble the Supreme Court passed in *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014.

Appeal is dismissed accordingly.

(RITU BAHRI)
JUDGE

25.09.2019
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No