

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-2376-2017 (O&M)

Date of decision: 16.10.2019

Oriental Insurance Co. Ltd.

..... Appellant

Versus

Smt. Sheela Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Rajneesh Malhotra, Advocate for the appellant.

None for respondent No. 3.

RAMENDRA JAIN, (ORAL)

Perusal of file shows that on the previous date i.e. 11.01.2018, none had come forward to represent respondent-claimants No. 1 and 2, despite service. Today also, none has appeared on their behalf. Hence, finding no other option, respondent-claimants No. 1 and 2 are proceeded *ex parte*.

Through this appeal, appellant-Insurance Company has sought reduction of compensation awarded to respondent-claimants No. 1 and 2, modifying impugned Award dated 07.02.2017 of the Motor Accident Claims Tribunal, Fatehabad (for short 'the Tribunal').

Briefly, on 16.02.2016, Kulwinder Singh, un-married son of respondent-claimants No. 1 and 2 aged around 25 years, a daily wager, died in a motor vehicular accident.

Being aggrieved of his death, parents of deceased-Kulwinder

Singh, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal.

Learned Tribunal after due notice and holding trial awarded a sum of ₹15,21,000/- to respondent-claimants No. 1 and 2 along with interest @ 7.5% per annum from the date of filing of claim petition till realization.

Relying upon judgment of Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, learned counsel for appellant-Insurance Company *inter alia* contends that the learned Tribunal has illegally added 50% to the monthly income of deceased towards future prospects, which could not have been added more than 40%. No compensation could have been awarded to respondent-claimants No. 1 and 2 towards loss of love and affection. Thus, learned Tribunal has illegally awarded a sum of ₹2,00,000/- under the said head. Learned Tribunal has also erred in awarding a sum of ₹25,000/- towards funeral expenses, which as per above referred case, could not have been granted more than ₹15,000/-. However, respondent-claimants No. 1 and 2 are entitled to ₹15,000/- towards loss of estate. In support of his assertions, learned counsel has furnished calculation which is taken on record as Mark 'A', whereby respondent-claimants No. 1 and 2 are entitled to compensation to the tune of ₹12,39,600/- against ₹15,21,000/- awarded to them by the Tribunal.

Since, respondent-claimants No. 1 and 2 have not chosen to contest this appeal, therefore, this Court has no option except to accept the calculation (Mark-A) furnished by learned counsel for appellant-Insurance Company and reduce the compensation from ₹15,21,000/- to ₹12,39,600/-.

In view of the above, the appellant-claimants are held entitled

to compensation of ₹12,39,600/- instead of ₹15,21,000/- i.e. less ₹2,81,400/- awarded by the learned Tribunal, vide Award impugned herein. Appellant-Insurance Company, through its counsel is directed to deposit the aforesaid amount of compensation before the learned Tribunal within one month from today less already deposited, if any, 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 appellant-claimants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

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

Disposed of.

October 16, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No