IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-4843-2017 (O&M)

Date of decision: 12.09.2019

IFFCO TOKIO General Insurance Company Ltd.

..... Appellant

Versus

Sarifan and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. Ajay Singla, Advocate for the appellant.

Mr. Ashish Gupta, Advocate for respondents No. 1 to 3.

**RAMENDRA JAIN, J. (ORAL)**

**CM-14596-CII-2017**

For the reasons explained in the application which is supported by an affidavit, the same is allowed. Delay of 64 days in filing the instant appeal is condoned.

**FAO-4843-2017 (O&M)**

Through this appeal, appellant-Insurance Company, has laid challenge to Award dated 25.01.2017 of Motor Accident Claims Tribunal, Mewat (for short-'the Tribunal'), awarding compensation of ₹15,94,880/- to respondent-claimants No. 1 to 3, on account of death of Mora @ Mormal, husband of respondent No. 1 and father of respondents No. 2 and 3 in a motor vehicular accident occurred on 21.03.2016.

Learned counsel for appellant-Insurance Company *inter alia* contends that learned Tribunal has wrongly and illegally added future prospects twice in para Nos. 16 and 19 of impugned Award. That apart, future prospects of deceased has to be taken 25%, instead of 30%, in accordance with principles laid down in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.** The Tribunal has also erred in deducting 1/4th towards personal expenses of deceased, without appreciating the fact that there were only three claimants, in view of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**. Learned Tribunal also awarded ₹2,80,000/- in excess under conventional head i.e. consortium, funeral expenses, loss of estate etc., in utter violation to the principles laid down in **Pranay Sethi's case (supra).** As per calculations (Mark A), furnished by learned counsel for appellant which is taken on record, the total amount of compensation payable to claimant-appellants comes to ₹ 11,34,112/- instead of ₹15,94,880/-. Therefore, the impugned Award has to be modified and reduction of ₹4,60,768/- is required to be made in the amount already awarded by the Tribunal.

On the other hand, learned counsel for respondent-claimants No. 1 to 3 has not been able to controvert or point out any infirmity in the above calculations submitted by learned counsel for the appellant. Rather, he has countersigned the same.

In view of the above, impugned Award dated 25.01.2017 is modified. The amount of compensation of ₹15,94,880/- awarded by the Tribunal is reduced to ₹ 11,34,112/-. Meaning thereby, the same is reduced by ₹4,60,768/-. Therefore, appellant-Insurance Company is held entitled for refund of ₹4,60,768/- along with interest @ 7.5% per annum. Respondent-claimants No. 1 to 3, through their counsel are directed to deposit the aforesaid excess amount 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, for onward disbursement to appellant-Insurance Company.

Disposed of.

**September 12, 2019** **( RAMENDRA JAIN )**
*rishu* **JUDGE**

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|---|---|
| **Whether speaking/reasoned** | **Yes/No** |
| **Whether reportable** | **Yes/No** |