

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

261

FAO-3366-2011 (O&M) with
XOBJC-32-CII-2017
Date of Decision : 30.08.2019

The National Insurance Company Ltd.

.... Appellant

Versus

Satbir and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.R.C.Kapoor, Advocate
for the appellant.

Mr.Ram Pal Verma, Advocate
for the cross-objectors/respondents No.1 to 4.

Service of respondents No.5 and 6 dispensed
with vide order dated 07.09.2011.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, the Insurance Company has laid challenge to the impugned Award dated 10.02.2011 passed by Motor Accident Claims Tribunal, Sonipat (for short- 'the Tribunal') awarding compensation to the tune of ₹5,82,072/- to the claimants/ respondents No.1 to 4, against death of Sunil in a motor vehicular accident.

Briefly, in the morning of 27.06.2009, deceased Sunil, aged around 22 years, unmarried and two other boys, while riding on a motorcycle were going towards Panipat side. On their way, the offending tanker bearing registration No.HR-86-B-4580 driven by respondent No.1 in a rash and negligent manner, came from

opposite side and struck against their motorcycle. As a result thereof, all occupants of the motorcycle sustained injuries. Sunil succumbed to his injuries on the way to hospital. He was contributing ₹12,000/- per month towards house hold expenses. The claimants suffered pecuniary loss as well as loss of love and affection etc. With these broad submissions, respondents No.1 to 4 filed a claim petition under Section 166 of the Motor Vehicles Act (for short, 'the Act').

After holding trial, learned Tribunal awarded abovesaid compensation to claimants/respondents No.1 to 4, who have filed their cross-objections in this appeal.

Both the sides are *ad idem* that this appeal has to be decided in accordance with the principles laid down in ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

Learned counsel for the Insurance Company has filed calculations (Mark A) duly counter signed by learned counsel for the respondents/claimants/cross-objectors. According to it, total compensation payable to claimants-respondents No.1 to 4, according to ***Pranay Sethi's case (supra)***, comes to ₹6,10,608/- less ₹5,82,072/- already awarded by the learned Tribunal. As per award, liability to pay compensation amount towards appellant-Insurance Company, driver and owner of truck is held to be 70% jointly and severally, which comes to Rs.4,27,425/-minus

Rs.3,67,450/- = Rs.59,975/- (rounded off Rs.60,000/-) already awarded by the Tribunal.

Learned counsel for claimants/respondents No. 1 to 4 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 the above, the claimants/respondents No. 1 to 4 are held entitled to compensation of ₹60,000/- over and above the amount of ₹3,67,450/- already awarded by the learned Tribunal, vide Award impugned herein. Respondent No. 3- Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation 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 the claimant-appellant, 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% from the date of institution of claim petition till realization.

The instant appeal stands disposed of, accordingly.

August 30, 2019
anju

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No