IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

398

FAO-4922-2011 with
XOBJC-2-CII-2012 (O&M)
Date of Decision: 20.09.2022

Reliance General India Insurance Company Ltd. ---Appellant

versus

Rama Devi and others ---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr.T.K.Joshi, Advocate
for the appellant.

Mr. Sanjay Mittal, Advocate
for respondents No.1 to 7/claimants.

None for respondent No.8.

Mr. Deepak Cerma, Advocate
for respondents No.9 and 10.

****

JAGMOHAN BANSAL, J. (ORAL)

1. By this order, appeal bearing FAO-4922-2011 and Cross Objections No.2-CII of 2012, which are arising from the same incident and award dated 23.05.2011 passed by the Motor Accident Claims Tribunal, Nuh (for short 'Tribunal') whereby the Tribunal has awarded a sum of Rs.23,80,275/- along with interest @ 6% per annum from the date of filing of the claim petition are hereby adjudicated.

2. The Reliance General Insurance Company Limited (for

the sake of convenience hereinafter called as 'appellant') has filed appeal raising question of quantum of interest whereas claimants have filed cross objections for enhancement.

3. The brief facts emerging from record and necessary for the adjudication of present appeal are that on 11.10.2008, while Mahesh Chand (deceased) was going on his motorcycle, met with an accident and he was taken to CHC Sohna where he died on 20.10.2008. The respondents preferred a claim petition under Section 166 of Motor Vehicles Act, 1988 before the Tribunal which came to be adjudicated vide order dated 23.05.2011. The Tribunal under different headings awarded a sum of Rs. 23,80,275/- along with interest @ 6% per annum from the date of institution of the petition till the realization of whole amount of compensation.

4. Learned counsel for appellant/insurer vehemently contended that as per judgements of Hon'ble Supreme Court of India in ***National Insurance Company Limited vs. Birender and ors., 2020(11) SCC 356*** and ***Reliance General Insurance Co. Ltd. vs. Shashi Sharma and ors., 2016(3) SCC (Crl.) 713,*** the amount of financial assistance extended by State of Haryana deserves to be deducted from compensation awarded by learned Tribunal.

Learned counsel vigorously submitted that amount of interest should not be included in the amount of compensation before deducting financial assistance. He further contended that amount of financial assistance at first instance should be deducted from amount of compensation and thereafter interest should be calculated on the balance amount. He does not dispute the calculation of principal amount and he confines his argument to calculation of interest.

5. Per contra, learned counsel for the respondents/claimants conceded that amount of compensation needs to be recalculated in terms of above-cited judgements of Hon'ble Supreme Court. However, the amount of interest should be included in the amount of compensation prior to deduction of financial assistance extended by State of Haryana.

6. The conceded position emerging from the record is that the deceased was an employee of State of Haryana and was drawing salary of Rs.27,187/- per month and in terms of a five-Judge Bench judgment of Hon'ble Supreme Court in **National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and a three-Judge Bench judgment of Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121***,* the respondents are entitled to compensation of Rs.47,73,016/-. The dispute lies in the narrow compass qua calculation of amount of interest. It is undisputed fact that the respondents on account of financial assistance got a sum of Rs. 23,61,072/- from State of Haryana.

7. Both the parties are ad-idem that financial assistance of Rs. 23,61,072/- must be deducted from amount of compensation. The respondents-cross objectors are entitled to interest @ 7.5% from

the date of filing of claim petition till the date of actual payment.

8. The respondents filed a claim petition on 07.03.2009 and it came to be adjudicated on 23.05.2011. As per afore-cited judgements, the amount of financial assistance deserves to be deducted from amount of compensation. The amount of compensation was determined on 23.05.2011 and by said date, interest for the period i.e.07.03.2009 to 23.05.2011 had accrued. The amount of financial assistance, no doubt, should be deducted from principal amount awarded by the Tribunal, however, the amount of interest cannot be calculated after deducting financial assistance from principal amount awarded because claim petition remained pending for almost three years and determination of compensation relates back to date of institution whereas financial assistance was extended by way of monthly payment in the form of salary. The respondents got financial assistance in monthly installments and amount of compensation which relates back to date of institution remained parked with insurer and it got benefit in the form of interest. It is settled principle of law that interest is compensatory in nature and Section 171 of Motor Vehicles Act, 1988 specifically permits Tribunal to grant interest on the compensation awarded. Thus, I am of the considered opinion that compensation which was determined on 23.05.2011 relates back to date of institution i.e. 07.03.2009 and by the said date, no financial assistance was extended to the respondents. The insurer cannot take advantage of pendency of

adjudication of claim petition. The insurer is liable to pay interest on the principal amount even though insurer cannot be called upon to pay interest on interest.

9. Faced with this situation, learned counsel for the insurer expressed his inability to controvert the calculation as proposed by this Court. Accordingly, the amount of interest and principal is re-calculated as below :-

Particulars	Amount of compensation (in Rs.)
Monthly income	27187
Future prospects (30 %)	35343
Deduction on account of personal expenses (1/5th)	28274
Annual income of the deceased	3,39,288
Multiplier (13)	44,10,744
Loss of estate	16500
Funeral expenses	16500
Family consortium	3,08,000
Medical expenses	21275
Total amount of compensation	47,73,016
Financial Assistance received from State Government	23,61,072
Compensation after deduction of financial assistance	24,11,944
Interest for the period from 07.03.2009 to 23.05.2011 (47,73,016 x 6%)	6,20,490
Compensation payable on 23.05.2011 (24,11,944 + 6,20,490)	30,32,434

10. The insurer shall pay balance unpaid amount i.e. Rs.30,32,434/- within eight weeks from today and insurer shall be further liable to pay interest @ 7.5% per annum on Rs.24,11,944/-

from 24.05.2011 to till date. It is made clear that amount already paid would be deducted from claim determined hereinabove.

11. The appeal and cross-objections are disposed of in the manner indicated above.

(JAGMOHAN BANSAL)
JUDGE

20.09.2022
anju

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