IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8561-2017 (O&M) AND
XOBJC-44-CII-2018
Date of Decision: 23.04.2026

IFFCO TOKIO GENERAL INSURANCE CO. LTD. ....Appellant

V/s

SAROJ @ BIMLA AND ORS. ....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Lajpat Sharma, Advocate and
Ms. Monika Khatri, Advocate for
Mr. Vivek Khatri, Advocate
for respondents No.1 to 4/cross-objectors

Mr. Aman Kumar, Advocate, for
Mr. Sandeep Goyat, Advocate
for respondents No.5 and 6.

***

VIKRAM AGGARWAL, J. (ORAL)

The appellant-Insurance Company is in appeal laying challenge to award dated 24.07.2017 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the MACT') vide which the claim petition instituted by the claimants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the M.V. Act) was allowed and compensation amounting to Rs.11,01,500/- was awarded to the claimants (Saroj and others) on account of the death of one Dilbag, who expired in motor vehicular accident, which took place on 13.04.2013.

2. The claimants have also instituted cross-objections, seeking enhancement in the said compensation.

3. At the time of issuance of notice of motion on 08.01.2018, the following order was passed:-

"108 CM-27982-983-CII-2017 in/and -1- FAO-8561-

2017(O&M)

IFFCO TOKIO GENERAL INS. CO. LTD. VS SAROJ @ BIMLA & ORS.

Present: Mr. Sanjeev Kodan, Advocate for the applicant-appellant (s).

****

CM-27982-CII-2017

Heard.

There is delay of 53 days in filing of the appeal.

In view of the facts mentioned in the application, the same is allowed and delay of 53 days in filing the appeal is, hereby, condoned.

FAO-8561-2017

Heard.

Learned counsel for the appellant submits that policy of the offending vehicle issued by the appellant was cancelled for non-payment of premium on 15.05.2013 and intimation in this regard was sent to the concerned RTA. The claim petition was filed in December, 2015. The insured had not taken any steps or raised any objection regarding cancellation of insurance policy. The monthly income of deceased has been taken as Rs.8,500/-, while minimum wages at the time of accident were Rs.5,212/- per month. The tribunal has awarded Rs.1,50,000/- towards loss of love and affection to which the claimants are not entitled as per latest judgment of Hon'ble Apex Court in case of National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) R.C.R. (Civil) 1009. Towards loss of consortium, Rs.1 lakh has been awarded by the tribunal while the same can be awarded as Rs.40,000/- only.

So far as submission about cancellation of the insurance policy issued by appellant is concerned, it carries no weight as the policy was valid on the day of accident. The tribunal has taken the income of the deceased, who was claimed to be a transporter, by treating him as labourer. The monthly income of Rs.8,500/- assessed by the tribunal is not on higher side even by treating deceased a casual labourer. However, as per the latest judgment of Hon'ble Apex Court in case of National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) R.C.R. (Civil)

1009, the compensation allowed by tribunal towards loss of love and affection and consortium, is a point which call for consideration.

Notice of motion to this extent for 26.03.2018.

Execution of the award shall remain stayed, subject to deposit of Rs.8,50,000/- before the executing Court, within four weeks, which on deposit, will be paid to the claimants on furnishing adequate surety to abide by further order that may be passed in this appeal.

(SURINDER GUPTA)
January 08, 2018 JUDGE
Sachin M./Jyoti-II"

4. Learned counsel for the appellant-Insurance Company fairly submits that since the issue as regards the insurance policy having been cancelled and the monthly income of the deceased having been assessed as Rs.8,500/-, was already decided at the time of issuance of notice of motion, the only ground which survives is the amount of compensation awarded by the Tribunal towards loss of love and affection and consortium. While pointing out to paragraphs 21 to 23 of the award, it has been submitted that a sum of Rs.10,000/- was awarded under the head of transportation, Rs.50,000/- each was awarded to the minor children and mother of the deceased on account of loss of love and affection and a sum of Rs.1,00,000/- was awarded to the widow on account of loss of consortium. It has been submitted that the said amount comes to Rs.2,60,000/-, whereas in terms of the judgment of the Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and others***, ***(2017)16 SCC 680***, a sum of Rs.15,000/- is payable on account of loss of estate, Rs. 15,000/- on account of funeral expenses and Rs.40,000/- to each of the claimants on account of consortium. It has also been fairly conceded that future prospects @ 10% per

annum were required to be granted in terms of the judgment of the Apex Court, since the deceased was 53 years old.

5. Learned counsel for the claimants has not been able to controvert the fair submissions made by learned counsel for the appellant.

6. If the entire calculations are made in terms of the judgment of the Apex Court in the case of ***Pranay Sethi's case (supra)*** while awarding Rs.40,000/- to each of the claimants as consortium (the date of the accident being 13.04.2013) Rs.15,000/- on account of funeral expenses and 15,000/- for loss of estate apart from 10% future prospects, there would not be any substantial difference in the total compensation already awarded by the Tribunal.

7. Since the amount awarded is by and large the same, there would be no requirement of recalculating the compensation payable to the claimants. The fact remains that there would neither be any enhancement in the amount of compensation awarded by the Tribunal nor would the amount decrease.

8. Accordingly, the appeal as also the cross-objections are disposed of, in terms of the above observations.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 23, 2026
Mani Kumar

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No