

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

**XOBJC-140-CII of 2015 (O&M) in/and
FAO-1053-2013**

Date of decision: 04.02.2016

Oriental Insurance Company

...Appellant

Versus

Navpreet Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashwani Talwar, Advocate
for the appellant/non-applicant.

Ms. Ekta Thakur, Advocate
for applicant/respondent No.1 & 2.

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JITENDRA CHAUHAN, J.

CM-1568-CII of 2015 in XOBJC-140-CII of 2015

Reply on behalf of the non-applicant is taken on record.

Heard.

For the reasons contained in the application, same is
allowed and delay of 634 days in filing the cross objection is
condoned.

Main Case and Cross objection

This appeal is preferred by the Insurance Company
against the impugned award dated 26.11.2012, passed by the

learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal'), and the cross-objection filed by the respondent Nos.1 and 2-applicants for enhancement of the compensation.

The learned counsel for the appellant/non-applicant contends that the amount awarded by the learned Tribunal is on higher side. The learned Tribunal has erred in applying the multiplier of 18 at the age of the deceased as against the age of the claimant-mother who was 48 years at the relevant time. Thus, he states that the multiplier of 13 deserves to be applied. Therefore, the award passed by the learned Tribunal is liable to be set aside.

On the other hand, the learned counsel for respondent Nos.1 and 2-applicants states that the learned Tribunal has wrongly deducted 10% excess towards the income as income tax, which deserves to be corrected. She further submits that nothing has been awarded towards loss of love and affection.

I have heard the learned counsel for the parties and perused the record.

The fact of accident is admitted and proved on record. It stands established that the deceased Mankaran Singh had died as a result of the accident. Further, as per evidence he was unmarried and his age was about 25 years at the time of the accident. The learned counsel for the appellant-Insurance Company states that the multiplier of 18 was wrongly applied as per the age of the

deceased and that should be as per the age of the claimant-mother, whose age was 48 years at the relevant time. However, in ***Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 ACJ 2002*** in para 17 the Hon'ble Supreme Court has observed as under:-

“17. The selection of multiplier is based on the age of the deceased and not on the basis of the age of dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation.”

In view of *Amrit Bhanu* (supra), the learned Tribunal has rightly applied the multiplier after considering the age of the deceased, therefore, the appeal qua the Insurance Company deserves to be dismissed.

Further, in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77 and Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315***, multiplier should be applied as per the age of the deceased, not as per the age of the dependents.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of loss of love and affection. Accordingly, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others,***

(2013-3) PLR 776, an amount of Rs.1,00,000/- is awarded to the mother of the deceased for loss of love and affection. Furthermore, an amount of Rs.10,000/- has been awarded towards 'cremation and last rites', which is on lower side. Therefore, in view of the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170*** another amount of Rs.15,000/- is awarded towards 'cremation and last rites'.

In view of the above, the appeal of the appellant-Insurance Company is dismissed and Cross-objection of the respondent Nos.1 and 2-claimant/applicants is partly allowed and another Rs.1,15,000/- [1,00,000/- (towards 'loss of love and affection payable to the mother of the deceased') + Rs.15,000/- (enhancement towards the head 'cremation and last rites')] as indicated above, is awarded to respondent Nos.1 and 2-claimant/applicants in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

04.02.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**