IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 888 of 2013 and
Cross Objections NO. 76 CII of 2013 (O&M)
Date of Decision: February 19, 2016

National Insurance Company Limited
...Appellant

Versus

Manju Devi and others
...Respondents

ORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. RN Singal, Advocate,
for the appellant.

Mr. Ashwani Arora, Advocate,
for respondents No. 1 to 3/Cross Objectors.

K. KANNAN, J. (Oral)

1. The appeal is by the insurer on the issue of quantum to contest a provision for prospect of increase in income awarded by the Tribunal. The claimants are in cross-objections seeking enhancement.

2. The deceased was a supervisor in a private company whose income was stated to be ₹7,000/- per month and accepted by the Tribunal as such. The Tribunal provided for a prospect of increase by 50% and assessed a compensation at ₹13,54,000/- including loss of consortium at ₹5,000/- for the wife and ₹5,000/- towards funeral expenses.

3. The learned counsel appearing for the insurer contends that the provision for increase ought not to be provided and issue is awaiting consideration before the Supreme Court of whether such increase could be given even for non-government employees. It is a strange logic for an insurer to plead that an increase is possible only to a settled government

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employee. It must be remembered a gradual increase of income is a natural incident in any growing economy. It will be wrong to assume again that the government alone sets the bench mark for increase of income. It is quite the reverse. The 'Make in India' campaign, which the Prime Minister of the country leads is a government's way of accepting that there is a large space for private initiative. It is private employment that leads the market and provides for a large scope for increase in income. The insurance company ought not to be in appeal before this Court questioning the quantum. The pendency of a reference before the Supreme Court ought not to be ralem by the insurer as causing a needless sense of uncertainty, for, an insurer can not hover around an appellate forum and stagnate litigation to some future date to await an adjudication from the Supreme Court. I feel no need for the High Court to fetter its own jurisdiction and do what is proper for determination of just compensation. I have no doubt in my mind that even a supervisor in a private company will just well secure periodical increase in his income and a prospect of increase that was awarded at 50% is indeed a minimal amount that was considered and applied in the decision of the Supreme Court in Sarla Verma Versus Delhi Transport Corporation 2009 (6) SCC 121 and which has been applied subsequently also to private employees in some decisions of the Supreme Court. A doubt may still remain in case of notional income taken for an unemployed person, when a question may arise that whether prospect increase could be given even to such notional income. There is simply no scope for uncertainty in cases of settled employment, be in government or private. I dismiss the appeal of the insurer as not tenable.

4. The cross-objection is essentially on scales of compensation

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given for loss of consortium to the wife and love and affection to the parents as assessed in some of the recent judgments starting from Rajesh and others Versus Rajbir and others 2013 (9) SCC 54 I will accord the benefit to the claimants for additional amount of ₹95,000/- for the wife and ₹1 lakh for the parents together. I will also make provision for additional amount of ₹20,000/- towards funeral expenses. The additional amount of compensation payable shall be ₹2,15,000/-, which shall be disbursed in such a way that one lakh of rupees is given to the wife and rest of the amount is given to the parents. This amount shall also attract interest @ 9% from the date of the petition till payment. The liability shall be of the insurer. This shall be subject to the recovery rights already provided by the Tribunal.

5. The appeal by the insurer is dismissed and the cross-objections filed by the claimants are allowed on the above terms.

February 19, 2016 **(K.KANNAN)**
prem **JUDGE**

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