IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.10301 of 2014 And
Cross-Objections No.22-CII of 2015
Date of Decision: November 28, 2017

National Insurance Company Ltd.
...Appellant
Versus

Gurinderjeet Kaur & Ors.
...Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr.Ravinder Arora & Mr.Neeraj Khanna, Advocates,
for the appellant-Insurance Company.

Mr.Ishaan Cooner, Advocate,
for respondent Nos.1 to 4/cross-objectors.

Mr.Anil Kumar Spehia, Advocate,
for respondent Nos.5 & 6.

B.S.WALIA, J.(Oral)

1. This order will decide FAO No.10301 of 2014 and cross-objection No.22-CII of 2015 as the same arise out of award dated 25.04.2014 passed by the learned Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal').

2. Learned counsel for the appellant-Insurance Company by relying on paragraph No.61 (iii) of the Constitution Bench decision of the Hon'ble Supreme Court in ***National Insurance Company vs. Pranay Sethi-SLP (Civil) No.25590 of 2014 decided on 31.10.2017*** contends that payment on account of future prospects is to be made less tax payable whereas, the same has not been so ordered by the learned Tribunal. Paragraph No.61(iii) as referred to above is reproduced as under:

> *"61 (iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was 48 between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax."*

Secondly, in view of paragraph No.61(viii) of the aforementioned decision, maximum compensation on account of conventional heads could be Rs.70,000/-, i.e., Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively, on account of loss of estate, loss of consortium and funeral expenses as against Rs.1,00,000/- awarded to the respondent/claimants. Paragraph No.61(viii) as referred to above is reproduced as under:-

> " *Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."*

3. Learned counsel for the respondent-claimant does not dispute the plea of learned counsel for the appellant. He, however, submits that the future prospects were wrongly worked out by the learned Tribunal at 30 percent of the monthly income of the deceased whereas, in view of deceased admittedly being less than 40 years of age as on the date of accident and was having a permanent job, future prospects were to be taken @ 50 percent of the monthly income in terms of paragraph No.61

(iii) of the decision in ***Pranay Sethi (Supra)***. Learned counsel conceded that in terms of paragraph No.61(viii) of the aforementioned decision, the maximum compensation payable on account of conventional heads was Rs.70,000/-, i.e., Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively, on account of loss of estate, loss of consortium and funeral expenses.

4. I have heard learned counsel for the parties and perused the award passed by the learned Tribunal.

5. Cross-objections have been filed by the claimants contending that the amount awarded by the learned Tribunal towards loss of income on account of future prospects has not been correctly worked out and since the deceased was admittedly less than 40 years of age as on date of death and was having a permanent job, therefore, in terms of paragraph 61 (iii) of the decision of the Constitution Bench of the Hon'ble Supreme Court in ***National Insurance Company vs. Pranay Sethi*** (supra), addition of 50 percent of actual salary was to be made to the deceased's income towards future prospects since admittedly the deceased was a regular employee of the Punjab Police as Assistant Sub Inspector and was drawing a salary of Rs.26,392/- per month.

6. The claim made by the objector/claimants merits acceptance as admittedly the deceased was less than 40 years of age as on the date of death on 09.03.2012 on account of his date of birth being 28.03.1972. He was working as Assistant Sub Inspector on regular basis in the Punjab Police against monthly salary of Rs.26,392/- per month. Since the deceased had a permanent job, accordingly it is held that the

objector/claimant would be entitled to addition of 50 percent of the actual salary to the income of the deceased towards future prospects less tax and compensation would be worked out accordingly. Likewise, compensation on account of conventional heads would be payable @ Rs.15,000/-, 40,000/- and Rs.15,000/- respectively on account of loss of estate, loss of consortium and funeral expenses in terms of paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra). Accordingly, the respondent/claimants would be entitled to Rs.70,000/- as compensation under conventional heads.

7. In view of the decision of the Hon'ble Supreme Court in ***"Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. 2009 AIR (SC) 3104"*** since the deceased had four dependents, personal expenses to be deducted out of the income of the deceased was to be taken as 1/4th consequently, dependency was to be worked out as 3/4th of the income of the deceased. Accordingly, in view of the salary of the deceased i.e Rs.26,392/- per month, dependency works out as under:-

Sr. No	Heads	Amount awarded
(i)	Salary	Rs.26,392/- per month
(ii)	50% of (i) to be added as future prospects	Rs.26,392/- +Rs.13,196/-= Rs.39,588/-
(iii)	1/4th of (ii) to be deducted as personal expenses of the deceased	Rs.39,588/- - Rs.9,897/- = Rs.29,691/-
(iv)	Compensation after multiplier of 15 is applied then amount awarded would be	Rs.29,691/- x 12 x 15= Rs.53,44,380/- (less tax payable)
(v)	Loss of Estate	Rs.15,000/-
(vi)	Loss of Consortium	Rs.40,000/-
(vii)	Funeral Expenses	Rs.15,000/-
	Total	Rs.54,14,380/-

8. Accordingly award passed by the Motor Accident Claims Tribunal, Jalandhar, is modified by holding that the respondent/claimant/objector would be entitled to total compensation of Rs.54,14,380/- less tax on the compensation payable on account of dependency along with interest @ 7 percent per annum w.e.f the date of filing of the claim petition till realization of the amount, less amount, if any, paid earlier.

9. Appeal is disposed of while cross-objections are allowed in the aforementioned terms.

November 28, 2017 **(B.S.WALIA)**
seema **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*