

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1494 of 2014 (O&M)
Date of Decision: December 08, 2017

Ranjit Kaur and others

..Appellant(s)

Versus

Gurnam Singh @ Goldi and another

..Respondent(s)

with

FAO No. 6033 of 2012 (O&M)

National Insurance Company Ltd.

..Appellant(s)

Versus

Ranjit Kaur and others

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.K. Arya, Advocate
for the appellant in FAO-1494-2014 and
for respondents no.1 to 3 in FAO-6033-2012.

Mr. Ashok Sridhar, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant in FAO-6033-2012 and
for respondent no.2 in FAO-1494-2014.

ANITA CHAUDHRY, J.

Delay in filing and refiling the appeal condoned.

These are two appeals, one filed by the claimants and other
by the insurance company. The claimants are seeking enhancement of
compensation while the insurance company is seeking recovery rights.

Few facts need to be detailed first. Deceased Gurmej was

stated to be a photographer and was also doing dairy farming. His income was stated to be Rs.20,000/- per month. He was 26 years old at the time of the accident. The Tribunal observed that no evidence had been led with respect to the income and took his income to be Rs.5,000/- per month, which a labourer could earn and made a deduction of 1/3rd and applied the multiplier of 17 to calculate the compensation to be Rs. 6,80,000/-. No amount on the miscellaneous heads was granted. The insurance company had taken a plea that the driver did not have the driving licence to drive a heavy transport vehicle but that submission was rejected and the insurance company was made liable to pay the compensation.

FAO-1494-2014

The submission on behalf of the appellants is that an addition towards future prospects should be made and the amount on miscellaneous heads should also be granted as the Tribunal has failed to award any amount.

The submission on behalf of the insurance company is that the minimum wages were much lesser and a higher amount had been taken and the minimum wages be taken and only then addition towards future prospects be made as per latest judgment rendered by Hon'ble Supreme Court in *National Insurance Co. Ltd. Vs. Pranay Sethi* in SLP (Civil) No.25590 of 2014 and recovery rights should be given to them.

The minimum wages stood at Rs.4,500/- per month for a

skilled worker in 2011. Therefore, taking that income and making an addition of 40%, the income would come to Rs.6,300/- per month and making a deduction of 1/3rd the compensation would be Rs.4,200 x 12 x 17 = Rs. 8,56,800/-. To this Rs.15,000/- is added for loss of estate, Rs.15,000/- is added for funeral expenses and Rs.40,000/- is added for loss of consortium, which raises the total to Rs. 9,26,800/-.

The Tribunal had allowed Rs. 6,80,000/-, which would be deducted and the remaining amount would be payable with interest @ 6% from the date of filing of appeal till realization. As regards the liability, it would be discussed below in FAO-6033-2012.

FAO-6033-2012

The submission on behalf of the insurance company is that the registration certificate is available on record and the vehicle was HTV whereas the driver had a licence to drive LTV and they were entitled to recovery rights.

No-one had appeared for the owner-driver though they were served. The registration certificate is available on record. The copy of the driving licence is also available on the lower Court record and the clear copy was shown at the time of arguments by the counsel. The driver had a licence to drive a LTV whereas at the time of accident he was driving a truck, which is registered as heavy transport vehicle. The driver did not have the necessary licence to drive the vehicle, therefore, the insurance company was entitled to recovery rights.

The appeal filed by the insurance company is allowed and

they would pay the additional amount to the claimants and can recovery
the same from the owner-driver.

Both the appeals are partly allowed in the above terms.

(ANITA CHAUDHRY)
JUDGE

December 08, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No