IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3956 of 2013 (O&M)
Date of Decision: 20.11.2017

National Insurance Company Limited, Mandi

...Appellant(s)

Versus

Kamaljit Kaur and others

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Neeraj Khanna, Advocate
for the appellant(s).

Mr. J.S. Cooner, Advocate
for the claimants/cross-objectors/respondents No.1 to 5.

ANITA CHAUDHRY, J.

Some facts need to be delineated.

A claim petition had been filed under Section 163-A of the Motor Vehicles Act. The Tribunal assessed the income at Rs.3300/- and made a deduction of 1/4th and added 30% towards future prospects and applied the multiplier of 13 and awarded Rs.20,000/- on conventional heads and passed a total award of Rs.5,21,930/-.

The submission on behalf of the Insurance Company is that when the claim is under Section 163-A, there could be no addition towards future prospects and the deduction towards personal expenses would be 1/3rd as per Schedule II appended to the Motor Vehicles Act and the amount awarded on the conventional heads was also on the higher side.

The counsel representing the cross-objector submits that they had filed cross-objection as the amount which had been allowed on the conventional heads was on the lower side and the claimants were entitled to a sum of Rs.1 lac for loss of consortium and Rs.1 lac should have been awarded for loss of love and affection as held in ***'Rajesh Vs. Rajbir Singh reported in 2013(3) RCR Civil 170'***.

The issue regarding awarding any amount on the head of love and affection stands done away with in the latest judgment of Apex Court in '***National Insurance Company Ltd. Vs. Pranay Sethi and others (SLP (Civil) No.25590 of 2014)'*** case. The arguments made on behalf of the cross-objector are fallacious. The Tribunal had gone wrong in awarding future prospects as that would have taken the income over the limit prescribed for filing a petition under Section 163-A. Therefore, calculation will have to be made again and taking the income to be Rs.3300/- making a deduction of 1/3rd as per Schedule II, the amount available for the family would be Rs.2200/- and the compensation would be Rs.2200x12x13=Rs.3,43,200/-. The amount to be added towards conventional heads would be Rs.9500/- as per Schedule II and the total amount payable would be Rs.3,52,700/-.

The award is modified. The excess amount which was paid to the claimant would be deposited back with the Executing Court within two months. If the amount is not deposited on time, the Insurance Company would be entitled to interest at the rate of 6%.

The appeal filed by the Insurance Company is allowed.

The cross-objections are dismissed.

November 20, 2017 **(ANITA CHAUDHRY)**
ps-I **JUDGE**

Whether Reasoned/Speaking **Yes/No**
Whether Reportable **Yes/No**