IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **Date of Decision: 15.12.2017**
FAO No.9464 of 2014 (O&M)

National Insurance Company Ltd.

...Appellant(s)

Versus

Manita and others

...Respondent(s)

2. **FAO No.10263 of 2014 (O&M)**

Manita and others

...Appellant(s)

Versus

Rajesh and others

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. D.K. Dogra, Advocate
for the appellant(s) (in FAO-9464-2014) and
for respondent No.3 (in FAO-10263-2014).

Mr. Ashok Kaushik, Advocate
for the appellant(s) (in FAO-10263-2014) and
for respondents No.1 to 4 (in FAO-9464-2014).

ANITA CHAUDHRY, J.

There are two appeals one filed by the Insurance Company and the other by the claimants, aggrieved by the award dated 07.07.2014 passed by the Motor Accident Claims Tribunal, Palwal.

The appeal had been filed by the Insurance Company as an addition of 50% towards future prospects has been made. The claimants have preferred the appeal as a wrong multiplier had applied and the income was taken less and they were also claiming interest @12%.

I have heard the submissions of both the sides.

The issue regarding addition of future prospects stands settled in '***National Insurance Company Ltd. Vs. Pranay Sethi and others (SLP (Civil) No.25590 of 2014)' .***

The Tribunal had taken the income of the deceased at Rs.5000/- per month. The claimants did not lead evidence to prove that the deceased was running a repair shop at Palwal or that his income was Rs.15000/- per month. They had produced a certificate issued by a private Association which merely states that M/s Palwal Refrigeration Association, Palwal was a member of their Association. The claimants were unable to prove that the deceased was running that concern. This fact was not even pleaded in the claim petition. The name of the concern was not mentioned. The evidence was rightly rejected.

The minimum wages were a little less than Rs.5000/- on 01.12.2010 but I would not make any change. The addition towards future prospects would be 40% and not 50% and after a deduction of $1/4^{th}$ and multiplier of 17. The compensation would come to Rs.10,71,000/- and if Rs.70,000/- on the miscellaneous heads allowed in '***National Insurance Company Ltd. Vs. Pranay Sethi and others (SLP (Civil) No.25590 of 2014)'***, is added, the total compensation that was payable would come to Rs.11,41,000/-. No increase can be given. The appeal filed by the claimants is dismissed. The appeal filed by the Insurance Company is partly allowed and the award is modified. The Insurance Company would be entitled to recover the excess amount paid, by filing an execution petition.

(ANITA CHAUDHRY)
JUDGE

December 15, 2017
ps-I

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