

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

F.A.O No. 2003 of 2017

Date of decision:- 07.12.2017

Oriental Insurance Co. Ltd.

...Appellant

Versus

Salima Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.K. Yadav, Advocate
for the appellant

Mr. Harkesh Manuja, Advocate
for respondent Nos. 6 and 7.

RITU BAHRI J.

1. The present appeal has been preferred by the Insurance Company-appellant, seeking modification of the award passed by the learned Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal') to the tune of Rs.14,21,000/-, vide impugned award dated 07.01.2017.

2. On 02.08.2014, when Shami Singh along with his mother Salima Kaur and Faqir Dass, her brother in law were returning to their village Cheema Mandi from Barnala on two motorcycles i.e Shami Singh was on his motorcycle bearing No. PB-13-V-7793, he was being followed on a separate motorcycle by Faqir Dass and Salima Kaur. When they reached near petrol pump, village Barbar towards bus stand, in the meantime, a truck bearing registration No. HR-68-A6611 driven by respondent No. 1 came from opposite side and struck into the motorcycle of Shami Singh-deceased. As a result of this, he fell down on the road received multiple injuries. The driver of the truck ran away from the spot. Shami

Singh was taken on Civil Hospital where he was declared dead. F.I.R No.

63 dated 02.08.2014 under Sections 279/427/304-A was registered.

COMPENSATION ASSESSED BY MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6000/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.6000+Rs.3000=Rs.9000/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.9000-Rs.3000=Rs.6000 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.6000 X 12 X 18= Rs.12,96,000/-
(v)	Loss of love and affection	Rs.1,00,000/-
(vi)	Funeral Expenses	Rs.25,000/-
	Total Compensation awarded	14,21,000/-

3. Learned counsel for the appellant is seeking modification of the award on two grounds i.e (i) Since the driver of the offending vehicle was having not having valid driving licence, as it was not issued by the Transport Authority Nagland, therefore the Insurance Company is not liable to make the compensation (ii) since deceased was bachelor, the deduction of ½ should be applied (ii) The future prospects as well as the compensation given under convention heads needs to be modified in view of judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017.***

4. On the other hand, learned counsel for respondent No. 6 and 7 has relied upon a judgment of this Court titled as ***ICICI Lombard General Insurance Co. Ltd v. Dev Kumar and others, passed in FAO No. 4886-2017, decided on 29.08.2017.***

5. With regard to the first argument of the learned counsel for the appellant that the recovery rights should be granted to the Insurance

company, it is liable to be rejected as the Tribunal has rightly held that even though the driver was a resident of Pinjore, and the licence had been issued from Nagaland Transport Authority, the onus was upon respondent No. 3- Insurance Company to prove regarding the genuineness of the driving licence of the driver, which they failed to do so. The Insurance Company had not examined any witness from the Transport Authority, Nagaland.

6. As far as other heads are concerned, the slight modification in the award requires consideration in view of judgment of Hon'ble the Supreme Court of India in a case of *National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017*, and the same is being re-assessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.6000+Rs.2400=Rs.8400/- per month
(iii)	½ of (ii) deducted as personal expenses of the deceased=	Rs.8400-Rs.4200=Rs.4200 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.4200 X 12 X 18= Rs.09,07,200/-
(v)	Conventional heads (Loss of estate, funeral expenses)	Rs.30,000/-
	Total Compensation to be awarded	09,37,200/-

7. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed. However, the appellant is directed to disburse the compensation amount of Rs.09,37,200/- to the claimants within a period of four weeks from the date of receipt of certified copy of this order and inform this court. The claimants shall also get interest @ 9% per annum from the date of filing of the claim petition on the above amount, in view of

the judgment of Hon'ble the Supreme Court in a case of *Kumari Kiran*

through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539. The remaining conditions of disbursal of amount shall remain unaltered.

07.12.2017
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>