

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

**FAO No. 2637 of 2017 (O&M)
Date of Decision: November 15, 2017**

Shri Ram General Insurance Company Ltd.

...Appellants

Versus

Rajiya and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajbir Singh, Advocate
for the appellants.

Mr. Ashish Gupta, Advocate
for respondent nos.1 to 9.

Mr. Neeraj Sheoran, Advocate
for respondent no.10.

ANITA CHAUDHRY, J.

The insurance company has challenged the award dated 04.01.2017 passed by the Motor Accident Claims Tribunal, Mewat (here-in-after referred to as the Tribunal).

The challenge by the insurance company is only with respect to the quantum, therefore, it is not necessary to give the other details.

Ramjan had died in an accident on 03.07.2016. A claim petition was filed by the widow and her eight children seeking compensation. The Tribunal held that the claimants could not prove the

income and took the notional income to be Rs. 8,000/- per month. The age of the deceased was taken as 35, which was reflected in the postmortem report. Deduction of 1/5th was made and a multiplier of 16 was applied. The Tribunal allowed Rs.1 lac for loss of estate, Rs.1 lac for loss of expectation of life, Rs.1 lac for loss of consortium and Rs.1 lac for love and affection and in addition Rs.25,000/- for funeral expenses, thereby adding Rs.4,25,000/- for the miscellaneous heads.

It had also been submitted that an addition towards future prospects should be made @ 50%. The Tribunal calculated the addition @ 50% at Rs.6,14,400/- but in the end noted that the decision in *National Insurance Company Ltd. Vs. Pushpa* 2015(9) SCC 166 (SC) was still pending and directed the insurance company to deposit that part of the amount with the bank and ordered that it would be disbursed to the claimants or refunded to the insurance company depending upon the decision of the Apex Court.

The submission on behalf of the appellants is that the multiplier was wrongly applied and no evidence with respect to age of the deceased was given, which had been withheld by the claimants and the eldest child of the deceased was 15 years old, therefore, the deceased could not be more than 35 years and even if now they can show that he was 35, he would withdraw his submission in this regard. The counsel further submits that the Tribunal had wrongly allowed Rs.4,25,000/- on the miscellaneous heads and now in view of the latest judgment rendered by Hon'ble Supreme Court in *National Insurance*

Co. Ltd. Vs. Pranay Sethi in SLP (Civil) No.25590 of 2014, the amount on the miscellaneous heads would only be Rs.70,000/- i.e. Rs.40,000/- for loss of consortium, Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses. He also urges that no addition towards future prospects can be made when the minimum wages have been taken.

On the other hand, the submission is that the multiplier would be 16 since the age reflected in the PMR was 35. It was urged that the claimants were entitled to the addition towards future prospects as the minimum wages are fixed under an Act.

So far as the issue of multiplier is concerned, the claimants had failed to give any document with respect to the age of the deceased. The eldest child was 15 years old, therefore, the age of the deceased would certainly be over 35 and I would take his age between 36 and 40 and the multiplier in that case would be 15.

With respect to the future prospects, I would make an addition as the minimum wages are fixed under an Act but in this case the addition would be 40% and not 50%, therefore, making the calculations and taking the minimum wages at Rs.8,000/- per month, though the minimum wages stood at Rs.7,976/- per month but I would take the same amount as taken by the Tribunal and making the calculations, the income would be Rs.11,200/- per month. As per *Sarla Verma and others Vs. DTC and another, (2009) 6 SCC 121*, if the dependents are up to 10, the deduction would be 1/5th and after

deducting $1/5^{\text{th}}$, the amount available for the family would be Rs.8,960/- per month and the compensation would be Rs. 8960 x 12 x 15 = Rs.16,12,800/-. To this a sum of Rs.15,000/- is added for funeral expenses, Rs.15,000/- is added for loss of estate and Rs.40,000/- is added for loss of consortium and the compensation would thus Rs.16,82,800/-. No addition towards loss of love and affection or loss of expectation of life can be made.

The appeal is partly allowed. The award is modified to the extent noted above. The insurance company have to pay only this amount and if any excess amount had been deposited, they can withdraw the same.

(ANITA CHAUDHRY)
JUDGE

November 15, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No