IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 12.12.2017

FAO 5578 of 2017 (O&M)

New India Assurance Co. Limited ....*Appellant*

Versus

Sarita and others ....*Respondents*

FAO 5580 of 2017 (O&M)

New India Assurance Co. Limited ....*Appellant*

Versus

Maya Devi and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Paul S Saini, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

CM 18221 CII of 2017

Heard.

Allowed as prayed for.

Delay of 5 days in filing the appeal stands condoned.

FAO No. 5578 and 5580 of 2017

This order will dispose of aforesaid appeals as these have emerged out of the same accident dated 06.12.2014 in which Vinod Kumar and Pirthi Raj lost their lives due to sustaining of injuries because of rash and negligent driving of Car bearing No. RJ 13-CA-9495 by Rishikesh

Batra, its driver.

FAO No. 5578 of 2017

Sarita and others filed application under Sections 166 and 140 of the Motor Vehicles Act, 1988 claiming compensation on account of death of Vinod Kumar in the aforesaid motor vehicular accident.

The Tribunal has assessed compensation to the tune of Rs.14,40,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.6,000.00
Addition in income for future prospects	50%
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	6750x12x15=Rs.12,15,000.00
Loss of consortium	Rs.1,00,000.00
Loss of care	Rs.1,00,000.00
Funeral expenses	Rs.25,000.00

Counsel for the appellant (insurance company) would urge that in view of latest enunciation laid down by Hon'ble the Supreme Court of India in ***National Insurance Company Limited v. Pranay Sethi and others*** (SLP (Civil) 25590 of 2014, decided on 31.10.2017), benefit of increase in income for future prospects to the extent of 40% as against 50% is available. The claimants are entitled to compensation under conventional heads only to the extent of Rs.70,000.00 i.e. Rs.40,000.00 for loss of consortium, Rs.15,000.00 for loss of estate and Rs.15,000.00 for funeral expenses. It is argued with vehemence that compensation awarded by the Tribunal is liable to be reduced by bringing it in consonance with the criteria laid down in the aforesaid judgment.

I have heard Counsel for the appellant and perused the paper book particularly the award impugned.

The Tribunal has assessed income of the deceased at Rs.6,000.00 per month in view of its findings recorded in para 16 of the award. I have examined the notification issued by the State of Punjab fixing minimum wage available at the relevant time. I find merit in contention of the appellant that in view of latest judgment of Hon'ble the Supreme Court in ***Pranay Sethi's*** case (supra), the claimants shall be entitled to benefit of increase in income for future prospects to the extent of 40% and compensation under conventional heads to the tune of Rs.70,000.00 in all. That being so, loss of dependency comes to **Rs.11,34,000.00** *i.e.* Rs.6000 x 12 x 15 (10,80,000) + 4,32,000 (40% future prospects) – 3,78,000 (1/4the deduction). Total compensation including amount of Rs.70,000.00 under conventional heads comes to **Rs.12,04,000.00**. Accordingly, compensation awarded by the Tribunal is reduced to the extent of Rs.2,36,000.00

CM 18229 CII of 2017

Heard.

Allowed as prayed for.

Delay of 5 days in filing the appeal stands condoned.

FAO No. 5580 of 2017

Maya Devi alias Guddi and others filed application under Sections 166 and 140 of the Motor Vehicles Act, 1988 claiming compensation on account of death of Pirthi Raj in the aforesaid motor vehicular accident.

The Tribunal has assessed compensation to the tune of Rs.7,21,800.00, detailed hereunder:-

Monthly income of the deceased	Rs.6,000.00
Addition in income for future prospects	15%

Deduction for personal expenses	1/3rd[h]
Multiplier	9
Loss of dependency	4600x12x9=Rs.4,96,800.00
Loss of consortium	Rs.1,00,000.00
Loss of care	Rs.1,00,000.00
Funeral expenses	Rs.25,000.00

Counsel for the appellant (insurance company) would urge that in view of latest enunciation laid down by Hon'ble the Supreme Court of India in ***National Insurance Company Limited v. Pranay Sethi and others*** (SLP (Civil) 25590 of 2014, decided on 31.10.2017), benefit of increase in income for future prospects to the extent of 10% as against 15% is available. The claimants are entitled to compensation under conventional heads only to the extent of Rs.70,000.00 i.e. Rs.40,000.00 for loss of consortium, Rs.15,000.00 for loss of estate and Rs.15,000.00 for funeral expenses. It is argued with vehemence that compensation awarded by the Tribunal is liable to be reduced by bringing it in consonance with the criteria laid down in the aforesaid judgment.

I have heard Counsel for the appellant and perused the paper book particularly the award impugned.

The Tribunal has assessed income of the deceased at Rs.6,000.00 per month in view of its findings recorded in para 17 of the award. I have examined the notification issued by the State of Punjab fixing minimum wage available at the relevant time. I find merit in contention of the appellant that in view of latest judgment of Hon'ble the Supreme Court in ***Pranay Sethi's*** case (supra), the claimants shall be entitled to benefit of increase in income for future prospects to the extent of 10% and compensation under conventional heads to the tune of Rs.70,000.00 in all. That being so, loss of dependency comes to **Rs.4,75,200.00** *i.e.* Rs.6000 x

12 x 9 (6,48,000) + 64,800.00 (10% future prospects) – 2,37,600 (1/3rd deduction). Total compensation including amount of Rs.70,000.00 under conventional heads comes to **Rs.5,45,200.00**. Accordingly compensation awarded by the Tribunal is reduced to the extent of Rs.1,76,600.00.

For the foregoing reasons, the appeals filed by the insurance company are partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that the appeals have been disposed of without notice to the claimants in order to avoid causing them inconvenience and unnecessary expense by engaging a counsel etc. However, the claimants shall be at liberty to file an appropriate application before this Court in case they have any grievance to express. It is further clarified that any observations made for disposed of appeals preferred by the insurance company would not cause prejudice to right of the claimants in case they file an appeal for enhancement of compensation.

(Rekha Mittal)
Judge

12.12.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No