

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

FAO No. 5756 of 2017 (O&M)
Date of Decision:- 29.11.2017

Cholamandlam MS General Insurance Co. Ltd. Appellant

Versus

Harpreet Singh & Ors. ... Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Punit Jain, Advocate, for the appellant.

Mr. Salinder Khanna, Advocate, for
Mr. A.K. Khinda, Advocate, for respondent No.1.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed by the insurance company against the award dated 24.05.2017 passed by the Motor Accident Claims Tribunal, Jalandhar (for short, 'the Tribunal'). A motor vehicular accident took place on 10.03.2014 between car bearing registration No. PB-02-V-0065 and truck bearing registration No. PB-03-AA-4229 (for short, 'the offending vehicle'). In the said accident Suhkhbir Kaur, aged 32 years, lost her life. FIR No. 38, dated 10.03.2014 was registered at Police Station Phillaur, District Jalandhar.

A claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'). In the claim petition it was averred that the deceased was working as Civil Judge, Jr. Division/JMIC and her salary was also proved. The Tribunal awarded a sum of Rs.1,50,00,000/- (1.5 crore) along with interest 6% per annum. It may be noted here that the

Tribunal while awarding compensation added 100% future prospects and awarded Rs.1 lac for loss of consortium and Rs 25,000/- for funeral expenses.

Aggrieved of the said award the insurance company has filed the present appeal challenging the quantum of the compensation awarded.

I have heard learned counsel for the parties and perused the paper-book.

Learned counsel for the insurance company argued that the Tribunal erred in awarding 100% future prospects. His further grievance is that the amount awarded under the conventional heads is on the higher side.

Learned counsel for the claimant though defended the award but could not raise any serious objections in view the latest decision of the Supreme Court in case of ***National Insurance Co. Ltd. Vs. Pranay Sethi and Ors.***, SLP (Civil) 25590 of 2014, decided on 31.10.2017 .

The issue raised by the insurance company is no longer res-integra and had been decided by the Apex Court in case of **National Insurance Co. Ltd. (Supra)** In the above decision the Hon'ble Apex Court had held as under:-

“(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was 48 between 40 to 50 years. In case the deceased was between the age of 50 to 60

years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.

In the present case there is no dispute by the parties on the involvement of the vehicle, rash and negligent driving of the offending vehicle, salary of the deceased, age of the deceased, deductions made for self expenses and the multiplier. The compensation is recalculated keeping in view the latest decision of the Apex Court.

Future prospects 50% has to be allowed and the conventional heads are to be restricted to Rs.70,000/-.

Net Salary as assessed by the Tribunal after deducting self expenses =		Rs.38,738/-.
Add 50% future prospects	=	Rs. 19369/-
Total	=	Rs.58107/-
Annual salary Rs.58107 x 12	=	Rs.6,97,284/-
applying multiplier of 16	=	Rs.1,11,56,544/-
For funeral expenses	=	Rs. 15,000/-
For loss of estate	=	Rs. 15,000/-
For loss of consortium	=	Rs. 40,000/-.

Keeping in view the above, the award dated 24.05.2017 is modified to the extent that the amount awarded of Rs.1,50,00,000/- is

reduced to Rs.1,12,26,542/-.

The claimants shall be entitled to the above said amount along with interest as awarded by the Tribunal. The statutory amount deposited for filing of the appeal be remitted back to the Tribunal.

The appeal is partly allowed.

November 29, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No