

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5947 of 2017 (O&M)
Date of Decision: 14.09.2017

National Insurance Company Ltd.

.....appellant

Vs.

Mukesh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.S.S.Sidhu, Advocate, for the appellant.

RITU BAHRI, J. (ORAL)

CM No.19295-CII of 2017

For the reasons stated in the application, delay of 72 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

The appellant/insurance company has come up in appeal against the Award dated 02.03.2017 passed by learned MACT, Panipat, whereby compensation has been awarded to the claimants to the tune of Rs.10,40,000/- on account of death of Arun Kumar and Sandeep Kumar in an accident took place on 15.01.2015.

On 15.01.2015, at about 10:00 pm, Arun Kumar and Sandeep Kumar were going from Bapoli to Panipat by motorcycle which was being driven by Sandeep Kumar. When they reached near Brahmampur, Bapoli Road, Panipat, an Eicher canter bearing registration No.HR56A-3281 came from Bapoli side being driven by respondent No.1 in a rash and negligent manner and hit their motorcycle from behind. On account of the injuries sustained in the accident, Arun Kumar and Sandeep Kumar died at the spot. The matter was reported to the police and a case vide FIR No.07 dated 16.01.2015 under Sections 279 and 304A had been registered.

Learned counsel for the appellant/insurance company has not

challenged the Award on the finding of issue No.1. However, he has challenged the Award only on the quantum of compensation. The income of the deceased Arun Kumar and Sandeep Kumar had been taken as Rs.5,000/- as a labourer keeping in view the wages of the year 2015 in the absence of evidence of income and in view of the law laid down in **Santosh Devi Vs. National Insurance Company Limited and others 2012 STPS (Web) 248 SC**, increase of 50% was liable to be taken in the come of the deceased which came to Rs.25,00/- . In this war, total income of the deceased comes to Rs.7500/- per month (Rs.5,000/- + Rs.2500/-) and after applying 1/3rd deduction and the multiplier of 13 and granting Rs.20,000/- on account of last rites and transportation and loss of consortium, the total compensation Rs.10,40,000/- was awarded to the claimants along with interest 7.5% per annum from the date of claim petition till its realization.

Learned counsel for the insurance company states that Hon'ble Supreme court in the case of **National Insurance Company Limited vs. Pushpa and others**, had referred the matter on the question of awarding loss of future prospects to the larger Bench in the case of self-employed persons. The apex Court had stayed the amount awarded on account of loss of future prospects while referring the matter to the Larger Bench.

In view of the above, the appeal of the Insurance Company is dismissed for the reason that up to the income of Rs.10,000/- per month, the benefit of future prospect cannot be denied to the daily wagers.

(RITU BAHRI)
JUDGE

14.09.2017

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