

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

FAO-8426-2017 (O&M)
Date of decision: 20.12.2017

M/s United India Insurance Co. Ltd. ...Appellant

Versus

Pal Kaur and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Vandana Malhotra, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 31.08.2017 passed by the Motor Accidents Claims Tribunal, Sangrur whereby compensation has been assessed on account of death of Balwinder Singh @ Gurwinder Singh in a motor vehicular accident that took place on 04.07.2016.

Counsel for the appellant would inform that the insurance company has preferred the appeal primarily on two counts. The first submission made by counsel is that as two persons were travelling on the pillion seat of the motorcycle bearing No.PB-13-AN-7481 driven by Balwinder Singh (since deceased), there is violation of the provisions of Section 128 of the Motor Vehicles Act, 1988 (in short 'the Act'), thus, contributory negligence has to be attributed to the deceased.

Another submission made by counsel is that compensation

assessed by the Tribunal is excessive as the Tribunal has allowed addition for future prospects to the extent of 50% as against 40% allowed in the latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Compensation under conventional heads is also more than what is admissible in the light of judgment in **Pranay Sethi's case** (supra).

No doubt, two persons namely Balwinder Singh son of Naurang Singh and Jiwan Singh son of Najar Singh were travelling on the pillion seat of aforesaid motorcycle driven by Balwinder Singh son of Amrik Singh (since deceased). The mere fact that three persons were travelling on a two wheeler in violation of Section 128 of the Act is not sufficient to attribute negligence to the deceased. Counsel for the appellant has failed to point out any materials on record that because of three persons travelling on the motorcycle, it attributed to causing of the accident, to blame driver of the motorcycle in question. In this context, reference can be made to judgments of this Court **Banwari Lal and another VS. Ran Singh and others, FAO No.2191 of 2014, decided on 23.08.2016** and **Karnail Singh Vs. Balwinder Singh, 2014 (7) RCR (Civil) 177**.

With regard to plea of the appellant qua assessment of compensation, the Tribunal has assessed compensation to the tune of Rs.13,03,020/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7210/-
2. Addition in income qua future prospects	50%
3. Multiplier	18

4. Deduction for personal expenses	1/2
5. Loss of dependency	Rs.11,68,020/- (5407 x 12 x 18)
6. Funeral expenses	Rs.25,000/-
7. Loss of estate	Rs.10,000/-
8. Loss of love and affection	Rs.1,00,000/-

The Tribunal has allowed addition in income for future prospects to the extent of 50% but the same has to be 40% in the light of latest judgment in **Pranay Sethi's case** (supra). Similarly, claimants shall be entitled to compensation of Rs.30,000/- under conventional heads, detailed hereunder:-

1. Funeral expenses	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

In view of the above, loss of dependency comes to Rs.7210 x 12 x 18 + 40% (future prospects) - 50% (deduction for personal expenses) = Rs.10,90,152/-. The total compensation comes to Rs.11,20,152/- and the compensation awarded by the Tribunal is reduced to the extent of Rs.1,82,868/- (13,03,020 – 11,20,152).

For the foregoing reasons, the appeal filed by the insurance company is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that the appeal has 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 disposal of appeal preferred by the insurance company would not cause prejudice to the claimants in case they file an appeal for enhancement of compensation.

20.12.2017
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(REKHA MITTAL)
JUDGE

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