

**XOBJC No.5-CII-2015 in/and
FAO No. 6491 of 2014 (O&M)**

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HIGH COURT CHANDIGARH

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

**XOBJC No.5-CII-2015 in/and
FAO No. 6491 of 2014 (O&M)
Date of Decision: December 11, 2017**

Oriental Insurance Company Ltd.

...Appellant

Versus

Balbir Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Navin Kapur, Advocate
for the appellant.

Mr. Ishan Singh Cooner, Advocate
for respondent nos.1 to 3/Cross Objectors.

ANITA CHAUDHRY, J.

This is an appeal and cross-objection against the award dated 01.03.2014, passed by the Motor Accident Claims Tribunal, Gurdaspur (here-in-after referred to as the Tribunal).

To appreciate the submissions made on behalf of the insurance company it is necessary to have some facts. Deceased Shera was a Lineman with Punjab Electricity Board and was drawing salary of Rs. 34,584/- per month. He was over 57 years and was to retire in about 8 months. The claimants were the widow and two major sons aged 29 and 27 years. The Tribunal held only the widow to be the dependent and made a deduction of half and applied the multiplier of 9 and allowed Rs.1

lac for loss of consortium and Rs.25,000/- for funeral expenses and an award of Rs.14,32,232/- was passed in favour of claimant no.1.

The insurance company is aggrieved by the award and the arguments is that the deceased was to retire in few months and his pension would have been 50% of the pay, therefore split multiplier should have been applied. It was urged that the Tribunal had deducted the income tax and had applied the cut of 50% towards dependency as the widow was the sole dependent and the claimant was not entitled to Rs.1 lac and the amount allowed as funeral expenses and the conventional heads would be as had been allowed in latest judgment rendered by Hon'ble Supreme Court in *National Insurance Co. Ltd. Vs. Pranay Sethi* in SLP (Civil) No.25590 of 2014.

The submission on behalf of the cross-objector is that there should be an addition of 50% towards future prospects and the deduction should have been 1/3rd.

Normally the split multiplier method is not to be followed unless there are specific reasons but in the present case it is not disputed that the deceased was to retire in 3 – 4 months at the age of 58. He died when when he was over 57 years of age, therefore, the full salary could only be taken for one year and for the remaining 8 years (multiplier of 9 was applicable), it would be 50% of the last salary. In view of Pranay Sethi's case (supra), there would also be an addition of 15% towards future prospects and the calculation would be as under:-

1.	Gross monthly income	Rs.34,584/-
2.	Annual income after deduction of 30% as income tax	Rs.2,90,497/-
3.	Annual Dependency after deducting half of the annual income	Rs.1,45,248.50/-
4.	Future prospects @ 15% (Rs.1,45,248.50 + 15%)	Rs.1,67,036/-
5.	Multiplier of 1 to be applied (Rs.1,67,036 x 1)	Rs.1,67,036/-
6.	Multiplier of 8 to be applied on half of Rs.1,67,036/- (Rs.83,518 x 8)	Rs.6,68,144/-
7.	Total Compensation (Rs.6,68,144 + Rs. 1,67,036/-)	Rs.8,35,180/-
8.	Total Amount (Rs.8,35,180/- + Rs.70,000/-) i.e. funeral expenses, loss of consortium and loss of estate	Rs.9,05,180/-
9.	Amount awarded by the Tribunal = Amount assessed above =	14,32,232 - (minus) 9,05,180
10.	Excess amount awarded	Rs.5,27,052/-

The above table would show that an excess amount of Rs.5,27,052/- has been awarded. The award is modified. The appeal filed by the insurance company is allowed while the cross-objections filed by the claimants is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 11, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No