

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

FAO No. 1893 of 2013 (O&M)

DATE OF DECISION : 02.02.2018

The Oriental Insurance Company Limited, Chandigarh

.... APPELLANT

Versus

Palvinder Kaur and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sanjiv Pabbi, Advocate,
for the appellant.

Mr. Mohit Garg, Advocate,
for respondents No.1 to 3.

None for respondent No.4.

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AVNEESH JHINGAN, J. (Oral)

The Insurance Company has filed the present appeal against the award dated 03.12.2012 passed by the Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal').

2. The grievance of the Insurance Company is that the quantum of compensation awarded by the Tribunal is on higher side.

3. The bare facts necessary for adjudication of the present appeal are that Harpal Singh, aged 35 years, lost his life in a motor vehicular accident, that occurred on 10.08.2009. He was going on motor cycle bearing registration No. PB-13AT-7179 from Patran towards his village. In the area

of village Hamchadi on Patran – Moonak road, a rashly and negligently driven Indica car bearing registration No. HR-37AT-7647 (for short, 'the offending vehicle') struck the motor cycle. Harpal Singh suffered grievous injuries. He was removed to Amar Hospital, Patiala, where he was declared brought dead. FIR No. 184 dated 11.08.2009 was registered at Police Station Patran.

4. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow and two minor sons of the deceased. The Tribunal awarded a sum of ₹ 31,50,000/- along with interest at the rate of 7% per annum.

5. The deceased was employed as a Constable in 2nd Indian Reserve Battalion, and was posted as a security guard in State Bank of Patiala, Patran Branch. It was proved on record that he was drawing salary of ₹ 13,559/- per month. He was survived by three dependents. The Tribunal applied a multiplier of 16, as the deceased was 35 years of age. 50% future prospects have been awarded by the Tribunal, which are in consonance with the decision of the Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.**

6. The only contention raised by learned counsel for the appellant – Insurance Company is that 1/5th deduction for self expenses has been made, whereas it should have been 1/3rd.

7. The aforesaid contention raised by learned counsel for the

appellant deserves acceptance. The Hon'ble Apex Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**

has held that where the deceased is survived by 2 to 3 dependents, 1/3rd deduction for self expenses is to be made. A sum of ₹ 25,000/- was awarded for funeral expenses, but no amount was awarded for loss of estate and loss of consortium. The Hon'ble Apex Court in **Pranay Sethi's case** (supra) has held that a sum of ₹ 70,000/- is to be awarded under the conventional heads, i.e. ₹ 15,000/- each for funeral expenses and loss of estate and ₹ 40,000/- for loss of consortium. Since the compensation awarded is being re-visited to rectify the deduction for self expenses, it would be in the interest of justice that the amounts are awarded under the conventional heads as per the decision of the Hon'ble Apex Court in **Pranay Sethi's case** (supra).

8. In view of the above decision of the Hon'ble Apex Court, compensation is re-calculated as under :-

Monthly earning	₹ 13,559/-	
Future prospects @ 50%	₹ 6,779/-	
Total	₹ 20,338/-	
1/3 rd deduction for self expenses	₹ 6,779/-	
Monthly dependency	₹ 13,559/-	
By applying multiplier of 16		₹ 26,03,328/-
Funeral expenses		₹ 15,000/-
Loss of estate		₹ 15,000/-
Loss of consortium		₹ 40,000/-
Total		₹ 26,73,328/-

9. The award dated 03.12.2012 is modified to the extent that the compensation of ₹ 31,50,000/- awarded by the Tribunal is reduced to ₹ 26,73,328/-.

10. This court during the pendency of the appeal had granted stayed recovery of compensation beyond ₹ 23,00,000/-. The claimants would be entitled to the balance amount along with interest, as awarded by the Tribunal, from the date of filing of the claim petition till realisation of the amount.

11. Appeal is partly allowed in the aforesaid terms.

February 02, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No