

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

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**FAO No.1202 of 2014 (O&M)
Date of Decision: July 16, 2018**

National Insurance Co.Ltd.

.....Appellant(s).

VERSUS

Kamla Kumari and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the appellant.

Ms. Ekta Thakur, Advocate
for respondents No.1 to 5.

Mr. Animesh Sharma, Advocate
for respondent No.6.

DEEPAK SIBAL, J. (ORAL)

Learned counsel for the appellant-National Insurance Company Ltd. submits that the Motor Accident Claims Tribunal, Chandigarh (for short - the Tribunal) erred in deducting 1/4th of the income of the deceased towards his personal expenses as the deduction should have been 1/3rd of his income since the deceased, in addition to his mother and wife, was survived by three major children. It is further submitted that in view of the law laid down by the Hon'ble Apex Court in *National Insurance Company Ltd. vs. Pranay Sethi and others, (2017) 16 SCC 680* the compensation awarded by the Tribunal to the respondents-claimants under the conventional heads i.e. loss of consortium and funeral expenses are on the higher side as under these heads Rs.1.25 lacs has been granted whereas only Rs.70,000/- should have been awarded.

The first submission of the learned counsel for the appellant with regard to the deduction of 1/4th does not cut any ice with me as nothing has been pointed out which would show that either of the three children, though major, were not dependent on the deceased or that they had any independent source of income.

So far as the compensation awarded to the respondents-claimants under the conventional heads i.e. 'loss of consortium' and 'funeral expenses' is concerned, learned counsel for the claimants very fairly states that as per the **Pranay Sethi's case (supra)**, the submission made on behalf of the learned counsel for the appellant-Insurance Company be accepted.

In view of the above, on the issue of 1/4th cut in the income of the deceased, the order of the Tribunal is sustained. However, the same is modified qua the compensation granted under the conventional heads i.e. 'loss of consortium' and 'funeral expenses' and accordingly the awarded compensation under these heads is reduced from Rs.1.25 lacs to Rs.70,000/-.

No other point was raised.

The appeal is disposed of in the above terms.

July 16, 2018
A.Kaundal

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No