IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO-1732-2014 (O&M)

Jaswant Kaur

..... Appellant

Versus

Gurdhian Singh and others

..... Respondents

1. FAO-1967-2014 (O&M)

The Oriental Insurance Company Ltd.

..... Appellant

Versus

Jaswant Kaur and others

..... Respondents

Date of decision: 17.05.2018

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Ms. Varuna Verma, Advocate
for the appellant (in FAO-1732-2014) and
for respondent No. 1 (in FAO-1967-2014).

Mr. Sanjiv Pabbi, Advocate
for respondent No. 3-Insurance Company (in FAO-1732-2014)
and for the appellant (in FAO-1967-2014).

RAMENDRA JAIN, J. (ORAL)

1. Through this common judgment, two above titled appeals, one filed by the claimant (FAO-1732-2014) for enhancement and another by the Insurance company for reduction in compensation, against the impugned Award dated 19.11.2013 of the Motor Accident Claims Tribunal, Patiala (for short-'the Tribunal') in a claim petition under Section 166 of the Motor Vehicles Act, are being disposed of. For brevity, the facts are being extracted from FAO-1732-2014.

2. Both the sides are *ad idem* that the appeals have to be decided in accordance with the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited* Vs. *Pranay Sethi and others,* 2017(4) R.C.R. (Civil) 1009.**

3. While submitting calculations 'Mark-A', learned counsel for respondent No. 3-Insurance Company contends that the deceased was un-married. Therefore, the learned Tribunal has wrongly deducted $1/3^{rd}$ towards personal expenses from his income, though 50% was liable to be deducted under the said head.

4. The contention raised by learned counsel for the appellant-claimant that multiplier of 14 ought to have been applied, keeping in view the age of the deceased as 42 years, was strongly refuted by learned counsel for respondent No. 3-Insurance Company, submitting that PW-3 Harbhajan Singh, own witness of the appellant-claimant from the office of Commandant, Home Guard, as per service book of the deceased, he was 48 years old at the time of his death.

4. Having given considerable thoughts to the rival submissions made by learned counsel for both the parties, this Court is of the view that the age of deceased has wrongly been taken by the learned Tribunal as 42 years, ignoring the deposition of own witness of the appellant-claimant on the basis of service record of the deceased that he was 48 years old at the time of his death. Deduction of $1/3^{rd}$ towards personal expenses of the deceased has also wrongly been applied by the learned Tribunal, in view of the fact deceased was a bachelor. Till date, no contrary law to deduction of 50% towards personal expenses from the income of an un-married deceased has been laid down by any Court of competent jurisdiction or the same has

came to the notice of this Court.

5. As per calculations (Mark-A) submitted by learned counsel for respondent No. 3-Insurance Company, the claimant-appellant is entitled to total compensation of ₹11,06,400/-. The Tribunal has already awarded compensation of ₹10,89,840/- to her. Thus, appellant-claimant is held entitled to compensation of ₹16,560/- over and above the compensation already awarded by the Tribunal. Learned counsel for the appellant-claimant has not been able to controvert or find out any infirmity in the aforesaid calculations.

6. Consequently, appellant-claimant is awarded enhanced compensation of ₹16,560/- over and above the amount of compensation already granted to her by the Tribunal, along with interest @ 7.5% per annum from the date of institution of claim petition till realization. Respondent No.3-Insurance Company is directed to deposit the amount aforesaid within two months from today before the Tribunal for onward disbursement of the same to the appellant-claimant in proportion so arrived at by the Tribunal, in accordance with law against proper receipt and identification. In case, above enhanced amount is not deposited by the Insurance Company, within the stipulated period the same would entail interest @ 12% per annum after two months.

7. Both the appeals are disposed of, accordingly.

May 17, 2018 **(RAMENDRA JAIN)**
rishu **JUDGE**

Whether speaking/reasoned **Yes/No**
Whether Reportable **Yes/No**