

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

**F.A.O No. 1328 of 2015 &
Cross Objection No. 130-CII of 2015 (O&M)
Date of decision:- 29.05.2018**

National Insurance Co. Ltd.

...Appellant

Versus

Sukhwant Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Suvir Dewan, Advocate
for the appellant-Insurance Company

Mr. R.S. Chauhan, Advocate
for cross objectors/respondent Nos. 1 to 3

RITU BAHRI J. (Oral)

1. Appeal and cross objection, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 16.09.2014 passed by the learned Motor Accident Claims Tribunal, Faridabad.

2. The parties are not in dispute with respect to finding on issue No. 1 that the deceased Roop Singh died on account of rash and negligent driving of respondent No. 1.

3. Learned counsel for the appellant is challenging the award on the ground that the award is liable to be modified in view of recent judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017***, as in the present case, firstly the future prospect would liable to be reduced from 15% to 10% and secondly, the amount awarded under the conventional head

would be liable to be reduced from Rs.3,25,000/- to Rs.70,000/-

4. On the other hand, learned counsel for the cross objector states that the claimants have already received the awarded amount of compensation and this amount cannot be refunded in view of recent judgment of Hon'ble the Supreme Court of India in a case of ***Hem Raj vs. The Oriental Insurance Company Ltd and others, passed in Spl Leave Petition (Civil) No. 22134-2016, decided on 22.11.2017*** wherein Hon'ble the Supreme Court has reduced the future prospect from 50% to 40% in view of ***Pranay Sethi's*** judgment but has not modified the conventional heads. It has further been held that any compensation amount already received by the claimant, will not be liable to be refunded.

5. In view of the above factual position, the appeal as well as cross objection are dismissed.

29.05.2018

G Arora

*Whether speaking/reasoned
Whether reportable*

*Yes
No*

(RITU BAHRI)
JUDGE