

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

Date of decision: 17.07.2018

FAO No.1623 of 2015 (O&M)

United India Insurance Co. Ltd.

... Appellant

Versus

Kiranpal and others

... Respondents

FAO No.4230 of 2016 (O&M)

Kiranpal and others

... Appellants

Versus

Baljit Singh and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjiv Pabbi, Advocate
for the insurance company.

Mr. Sanjeev Goyal, Advocate
for the claimants.

Mr. Janak S. Bhinder, Advocate for
Mr. Jagmeet S. Moudgill, Advocate
for respondent-Baljit Singh (owner and driver).

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1623 of 2015 and 4230 of
2016 as these have emerged out of the same award dated 10.12.2014 passed
by the Motor Accidents Claims Tribunal, Sangrur.

FAO No.1623 of 2015 has been filed by United India

Insurance Co. Ltd. (hereinafter to be referred as 'the insurance company')
whereas the other appeal has been filed by the claimants seeking
enhancement of compensation.

Counsel for the insurance company would inform that the
appeal has been preferred to assail quantum of compensation assessed by
the Tribunal.

The Tribunal has awarded compensation of Rs.17,83,000/-,
detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Addition in income for future prospects	50%
3. Multiplier	18
4. Deduction for personal expenses	1/4 th
5. Loss of dependency	Rs.14,58,000/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of consortium	Rs.1,00,000/-
8. Loss of care & guidance for minor children	Rs.2,00,000/-

Counsel for the insurance company would urge that benefit of
future prospects is liable to be restricted to 40% and compensation under
conventional heads to Rs.70,000/- in the light of latest judgment of Hon'ble
the Supreme Court **National Insurance Company Limited Vs. Pranay
Sethi and Ors., 2017 SCC 1270.**

Counsel representing the claimants would argue that the
deceased was an agriculturist and it has been proved on record that he had
sold produce worth Rs.3,42,000/- on 17.10.2013 and Rs.1,66,429/- on
18.10.2013 proved by Rishi Pal CW3, accountant with M/s Gopi Chand

and Sons Commission Agent and M/s Piara Lal Gopi Chand, Commission Agent, Dirba Mandi.

The plea of the claimants is that the deceased was working as agriculturist as he owned 3 killas of land and had taken 10 acres of land on lease. The claimants have not produced on record any document with regard to ownership or/and possession of land by the deceased. However, it has been proved that the deceased had sold produce through commission agencies at Dirba Mandi, proved by Rishi Pal CW3. The proceedings before the Tribunal are summary in nature and do not admit strict principle of law of evidence to be applied. Taking into consideration the materials on record coupled with the minimum wage available at the relevant time, income of the deceased is assessed at Rs.7000/- per month. After allowing benefit of future prospects @ 40%, deduction for personal expenses to the extent of 1/4th and multiplier of 18, loss of dependency is calculated at Rs.15,87,600/- [(Rs.7000 x 12 x 18) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is restricted to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.16,57,600/- and compensation assessed by the Tribunal is reduced to the extent of Rs.1,25,400/-

(17,83,000 - 16,57,600). The excess amount, if already paid, may be recovered by the insurance company by filing an appropriate application before the Tribunal.

For the foregoing reasons, the appeals are disposed of in the aforesaid terms.

17.07.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No