

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

XOBJC-143-CII of 2016 (O&M) in/and
FAO-1246-2016 (O&M)

Date of decision: 12.07.2018

NATIONAL INSURANCE CO LTD

... Appellant

Versus

KULDEEP KAUR & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sandeep Suri, Advocate
for the appellant.

Mr. Vikram Bali, Advocate
for the claimants/cross objectors.

REKHA MITTAL, J. (Oral)

CM No.11308-CII of 2016 in XOBJC-143-CII of 2016

Heard.

Allowed as prayed for. Delay of 27 days in filing the cross
objections stands condoned.

XOBJC-143-CII of 2016 in/and FAO-1246-2016

This order will dispose of FAO No.1246 of 2016 and cross
objections No.143-CII of 2016 as these have emerged out of the award
dated 30.09.2015 passed by the Motor Accidents Claims Tribunal, SAS
Nagar whereby compensation has been awarded on account of death of
Ranbir Singh in a motor vehicular accident that took place on 12.09.2014.

Counsel for the appellant-insurance company would inform that appeal has been preferred to assail quantum of compensation assessed by the Tribunal whereas the cross objections have been preferred by the claimants seeking enhancement of compensation.

The Tribunal has awarded compensation of Rs.22,19,000, detailed hereunder:-

1. Monthly income of the deceased	Rs.9000/-
2. Addition in income for future prospects	50%
3. Multiplier	16
4. Deduction for personal expenses	1/4 th
5. Loss of dependency	Rs.19,44,000/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of consortium	Rs.1,00,000/-
8. Loss of love, affection, care and guidance to claimants No.2 to 4 (Rs.50,000/- each)	Rs.1,50,000/-

Counsel for the insurance company would urge that income of the deceased assessed by the Tribunal is based upon testimony of Dr. Parminder Singh PW4 but he has not produced any document with regard to employment and salary of the deceased. The addition in income for future prospects and compensation allowed under conventional heads may be corrected 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/cross objectors has prayed for enhancement of compensation by assessing income of the deceased at Rs.350/- per day in the light of testimony of Dr. Parminder Singh.

The plea of the claimants is that the deceased was working as a helper at Dr. Parminder Singh's dental clinic, Landran Road, Kharar. Dr. Parminder Singh, proprietor of the aforesaid clinic was examined to substantiate plea of the claimants in this regard. Even in the FIR lodged at the behest of Arjun Kumar PW2, it was recorded that the deceased was working in Dr. Parminder Singh's dental clinic. There is no evidence with regard to educational qualification of the deceased. The minimum wage of an unskilled worker at the relevant time was Rs.6656/- per month. Taking into consideration the materials on record, I do not find any reason to interfere in assessment of income of the deceased. Accordingly, income of the deceased assessed by the Tribunal is affirmed.

Claimants shall be entitled to benefit of future prospects @ 40%. The multiplier and deduction for personal expenses allowed by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.18,14,400/- [(Rs.9000 x 12 x 16) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitled 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.18,84,400/-. Compensation allowed by the Tribunal is reduced to the extent of Rs.3,34,600/- (22,19,000 –

18,84,400). The insurance company shall be entitled to recover the excess amount, if already paid, by filing an application before the Tribunal.

For the foregoing reasons, the appeal filed by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, cross objections filed by the claimants are dismissed.

No order as to costs.

(REKHA MITTAL)
JUDGE

12.07.2018
ashok

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