

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

**FAO No. 1687 of 2016 and
XOBJ No.48-CII of 2017(O&M)**

Date of Decision: July 26 , 2018.

National Insurance Company Ltd.

..... APPELLANT (s)

Versus

Rimpi Rani and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.C.Kapoor, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for respondents No.1 to 4 and cross-objectors.

LISA GILL, J.

CM No.6622-CII of 2017 in/and XOBJ No.48-CII of 2017

The abovesaid application and cross-objections were directed to be heard alongwith the main appeal vide order dated 27.03.2017.

For the reasons mentioned in the application and arguments addressed, delay of 177 days in filing the cross-objections is condoned.

Application is disposed of.

Notice of the cross-objections is accepted by Mr. R.C.Kapoor, learned counsel for the appellant.

FAO No.1687 of 2016 and
XOBJ No.48-CII of 2017

This order shall dispose of FAO No.1687 of 2016 filed by the Insurance company as well as cross-objections filed by the claimants/respondents No.1 to 4.

FAO No.1687 of 2016 has been filed by the Insurance company for reduction in the amount of compensation awarded to the claimants/respondents No.1 to 4. Cross-objections No.48-CII of 2017 have been filed by the claimants/ respondents No.1 to 4 for enhancement of the compensation.

Brief facts of the case are that, claimants/respondents No.1 to 4 had filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Mangesh Kumar @ Mange Ram in a motor vehicle accident which took place on 02.11.2014 due to the rash and negligent driving of the offending truck bearing registration No. HP-17-3165 by respondent No.5 – Meer Hussan. Learned Tribunal concluded that the accident took place due to the rash and negligent driving of the offending vehicle by the said respondent. The said finding has not been challenged and the same has attained finality.

The learned Tribunal awarded a total sum of ₹18,53,000/- as compensation to the claimants, which is tabulated as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	9000 per month
2.	Add, % of increase 30%/50%	50%
3.	Deduction 1/2, 1/3,1/4,1/5	1/3
4.	Multiplicant (annualized) (9000-4500=13500-4500=9000x12	1,08,000/- per annum

5.	Multiplier	16
6.	Loss of dependency	17,28,000/-
7.	Medical expenses	--
8.	Loss of Consortium	1,00,000/-
9.	Loss of estate	--
10.	Funeral Expenses	25,000/-
11.	Total	18,53,000

There is no dispute regarding the death of Mangesh Kumar @ Mange Ram, aged 26 years old, in a motor vehicle accident which took place on 02.11.2014 due to rash and negligent driving of the offending truck by respondent No.5.

Learned counsel for the appellant-insurance company does not raise any dispute regarding its liability in this matter. It is the quantum of compensation which has been impugned in this appeal. It is contended that the income of the deceased has wrongly been assessed as ₹9,000/- per month whereas the accident in question took place in the year 2014. Minimum wages in the State of Haryana at that time even for a skilled workman were not beyond ₹6,100/- per month. Therefore, it is submitted that the income of the deceased has been wrongly assessed as ₹9,000/- per month. It is further submitted that in view of the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, increase for future prospects at the rate of 40% has to be afforded instead of 50%. Amount under the conventional heads is also liable to be reduced.

Learned counsel for cross-objectors/respondents No.1 to 4 while not denying the guidelines laid down by the Hon'ble Supreme Court in **Pranay Sethi's case** (supra) submits that multiplier however should be 17 instead of 16.

It is further not denied that the claimant-wife while deposing as PW1 before the Tribunal has stated that her husband (the deceased) was a labourer by profession.

Minimum wages of an unskilled workman in the year 2014 were ₹5,639/- per month, of semi-skilled ₹5,899/- per month and that of skilled workman are ₹6,159/- per month. It is not in dispute that there is no evidence on record apart from the bald statement of PW1 to prove the income of the deceased. She has admitted her husband to be a labourer. It is thus considered appropriate to assess the income of the deceased to be ₹6,000/- per month instead of ₹9,000/- per month. Future prospects at the rate of 40% have to be afforded instead of 50% in view of the decision of the Hon'ble Supreme Court in Pranay Sethi's case (supra). Multiplier of 17 instead of 16 is to be applied keeping in view the age of deceased i.e., 26 years at the time of the accident and deduction at the rate of 1/4th is to be effected keeping in view the number of dependants i.e., 4 as per the decision of the Hon'ble Supreme Court in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77.

Compensation to the claimants/cross-objections is, thus, reworked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	6000 p.m. i.e. ₹72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000 + (72,000 x 40%) = 1,00,800
3.	Income after deduction of 1/4 th on account of personal expenses	1,00,800 – (1,00,800 x 1/4) = 75,600

4.	Total dependancy after applying a multiplier of 17	(75,600 x 17) = 12,85,200
5.	Loss of estate	15,000
6.	Loss of consortium to claimant wife	40,000
7.	Funeral expenses	15,000
Grand Total		₹13,55,200/-

Recovery of the amount awarded by the learned Tribunal beyond ₹14,00,000/- had been stayed by this Court on 21.03.2016. In case any amount beyond the sum assessed now has been disbursed to the claimants, the appellant shall not be entitled to any interest thereon.

Consequently both FAO No.1687 of 2016 and XOBJ No.48-CII of 2017 are disposed of with the abovesaid modification in the amount of compensation.

July 26 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No