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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC No.166-CII-2015 (O&M) in/and
FAO No.4646 of 2014 (O&M)
Date of Decision: 23.05.2018.

ORIENTAL INSURANCE COMPANY LTD
......Appellant

Vs

CHAHAT & ORS
....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Sanjiv Pabbi Advocate
for the appellant.

Mr. Jarnail Singh Saneta, Advocate
for respondents No.1 and 2/cross-objectors.

Mr. Sanjeev K. Sharma, Advocate for
Mr. Kuldeep Tiwari, Advocate
for respondents No.3 and 4.

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RAJ MOHAN SINGH, J. (Oral)

[1]. The present appeal has been preferred by the appellant-Insurance Company against the award dated 13.01.2014 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter to be referred as 'the Tribunal'). Cross-objections have also been preferred by respondents No.1 and 2 for enhancement of compensation.

[2]. Brief facts are that a motor vehicular accident took

place on 07.12.2012 in which Jaspal Singh died. He was 33 years of age and was doing private job in Govindgarh Mandi against salary of Rs.11,350/-. Facum of monthly salary of the deceased Jaspal Singh was established on record. The Tribunal found the accident to be the result of rash and negligent driving of offending vehicle by respondent No.1. While assessing compensation, the Tribunal treated monthly salary of the deceased to be Rs.11,350/- to which addition of 50% towards future prospects was made. Thereafter, multiplier of 16 was applied. After adding Rs.30,000/- towards conventional heads, total amount of Rs.22,09,200/- as compensation was awarded by the Tribunal.

[3]. In the appeal, grievance of the appellant-Insurance Company is only to the extent that instead of awarding future prospects to extent of 50%, the same should have been awarded to the extent of 40% in view of ratio laid down in ***National Insurance Co. Limited vs. Pranay Sethi, 2017 SCC 1270.***

[4]. The grievance of the claimants in the cross-objections is that the compensation under the conventional heads is on the lower side.

[5]. I have considered the submissions made by learned

counsel for the parties.

[6]. The controversy between the parties has been virtually settled by the Hon'ble Apex Court in ***Pranay Sethi's*** case (supra), wherein future prospects as against the age of deceased is to be assessed to the extent of 40% and the conventional heads in the given state of circumstances have to be assessed to the tune of Rs.30,000/- as claimants are minor daughter and mother of the deceased, therefore, there cannot be any loss of consortium in the present case.

[7]. In view of above, there is no scope of granting any indulgence in favour of the cross-objectors. The cross-objections are accordingly dismissed.

[8]. In the appeal filed by the Insurance Company, a reduction from 50% towards future prospects is to be made to the extent of 40%. If calculations are made, then the monthly income of the deceased would come out to be Rs.15,890/- after addition of 40% towards future prospects. Keeping in view the composition of family, 1/3rd towards personal expenses has to be deducted from the aforesaid total salary. After deduction of Rs.5,296/- as 1/3rd of the amount, the remaining salary would come out to be Rs.10,594/- per month i.e. Rs.1,27,128/- per annum.

[9]. The deceased was aged about 33 years at the time of accident. In view of ratio laid down in ***Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC)*** on the basis of age of the deceased, multiplier of 16 is to be applied. In this way assessment towards dependency comes out to be Rs.20,34,048/- (1,27,128 x 16). An Additional amount of Rs.30,000/- is to be assessed towards conventional heads in view of ***Pranay Sethi's*** case (supra). In this way, total amount of compensation comes out to be Rs.20,64,048/- (20,34,048 + 30,000).

[10]. In view of aforesaid modification, the present appeal is disposed of. Claimants are held entitled to claim difference of amount i.e. Rs.20,64,048/- along with interest as awarded by the Tribunal. Normal consequences to follow.

[11]. All other misc. applications are also accordingly disposed of.

May 23, 2018 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No