

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

Date of decision: 26.04.2018

FAO-2951-2016 (O&M)

NATIONAL INSURANCE COMPANY LTD.

... Appellants

Versus

MAINA DEVI & ORS

... Respondents

FAO-5380-2016 (O&M)

MAINA DEVI AND OTHERS

... Appellants

Versus

GURPREET SINGH & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate
for the insurance company.

Mr. C.R. Narwal, Advocate for
Mr. Pankaj Mehta, Advocate
for the appellants in FAO No.5380 of 2016 and
for respondents No.1 and 2 in FAO No.2951 of 2016.

Mr. Sanjeev Kodan, Advocate
for respondents No.3 to 5 in FAO No.2951 of 2016.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2951 and 5380 of 2016 as
these have emerged out of the same award dated 29.02.2016 passed by the

Motor Accidents Claims Tribunal, Hisar whereby compensation has been awarded on account of death of Sonu in a motor vehicular accident that took place on 17.03.2015.

FAO No.2951 of 2016 has been filed by the National Insurance Co. Ltd. (hereinafter to be referred as 'the insurance company') whereas FAO No.5380 of 2016 has been filed by the claimants seeking enhancement of compensation.

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

The Tribunal has awarded compensation of Rs.13,16,000/-, 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.12,96,000/-
6. Transportation and funeral expenses	Rs.20,000/-

The sole submission made by counsel for the insurance company is that the Tribunal has allowed benefit of future prospects @ 50% as against 40% available 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 income of

the deceased assessed by the Tribunal is on lower side. Adequate compensation may be allowed under conventional heads.

The plea of claimants is that the deceased was a motor mechanic and had income of Rs.20,000/- per month. The Tribunal in para 15 of the award has noticed that Maina Devi PW1, mother of the deceased appeared in the witness box and reiterated aforesaid plea of the claimants but failed to produce any proof qua income of her son or disclose working place of Sonu. The Tribunal has assessed income of the deceased at Rs.6000/- per month. When the case is examined in the light of minimum wage fixed by the State of Haryana and available at the relevant time, there is no justification for increase in income of the deceased. Claimants shall be entitled to addition for future prospects @ 40% in the light of judgment in **Pranay Sethi's case** (supra). Deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. The deceased was unmarried son of claimants No.1 and 2 and claimants No.3 and 4 cannot be held to be dependent upon income of the deceased in absence of any materials on record that Dharambir, their father had any disability to earn livelihood for his family. In this manner, loss of dependency comes to Rs.9,07,200/- (Rs.6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses).

Under conventional heads, claimants shall be entitled to Rs.30,000/-, namely Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.9,37,200/- and compensation awarded by the Tribunal is reduced to the extent of Rs.3,78,800/- (13,16,000 - 9,37,200).

For the foregoing reasons, the appeal filed by the insurance company is partly allowed. As a natural corollary, appeal filed by the claimants is ordered to be dismissed leaving the parties to bear their own costs. The insurance company shall be entitled to recover the excess amount (if already paid) by filing an appropriate application before the Tribunal.

26.04.2018
ashok

(REKHA MITTAL)
JUDGE

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