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

FAO No.3897 of 2016 (O&M)
Date of decision: 22.05.2018

National Insurance Co. Ltd.

.......Appellant

versus

Smt. Mina Devi and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Gopal Mittal, Advocate, for the appellant.
Mr. Vikram Bali, Advocate, for respondents No.1 to 3.
Mr. Nitin Jain, Advocate, for respondent No.4.

RAMENDRA JAIN, J. (ORAL)

Through this appeal Insurance Company has sought reduction in compensation, modifying the impugned award dated 04.03.2016 of the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal').

Both the parties are *ad idem* that this appeal has to be decided in accordance with the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others****, 2017(4) R.C.R. (Civil) 1009*.

Learned counsel for the appellant-Insurance Company has produced calculation sheet in accordance with ***Pranay Sethi's*** case (supra) in Court. The same is taken on record as Mark 'A'. He contends that the tribunal has granted ₹6,57,568/- in excess to the respondents-claimant against the death of Rinki Kumari.

Learned counsel for respondents No.1 to 3-claimants has not disputed the multiplier method, adding of 50% towards future prospects to alleged income of the deceased and ₹30,000/- under the conventional head of loss of estate and funeral expenses in the calculation Mark 'A'. However, he has submitted that proposed income tax cannot be deducted on future prospects in view of the fact that exemption slab may increase in future. Ration money of ₹2,665/- per month being paid to deceased Rinki Kumari has also wrongly been deducted to calculate dependency of claimants, because the same was a integral part of the salary of the deceased.

Having given considerable thought to the submissions made by both the sides, this Court finds no merit in the submissions of learned counsel for respondents-claimant, in view of the fact that allowances like ration money, washing allowance, transportation charges etc. are the allowances of such nature which are paid only during the employment of an employee. Such type of allowances are given to an employee towards his job related expenditure every month. Therefore, by any stretch of imagination, they cannot be part and parcel of the salary given or drawn by an employee.

As far as deduction of income tax against the future prospects is concerned, the same has rightly been deducted in the calculations (Mark 'A') on the basis of exemption slab prevalent in the assessment year 2015-16 or prevalent as on date, inasmuch as no change has been effected in the same by the Income Tax Department. Therefore, exemption slab of income tax has to be taken as prevalent today and not on the basis of any other slab which has not seen light of the day as yet.

Since, as discussed above, a sum of ₹6,57,568/- has been awarded in excess to respondents-claimant, therefore, the impugned award is modified to the extent that respondents No.1 to 3-claimant shall be entitled to a compensation of ₹36,67,932/- instead of ₹43,25,500/-, awarded by the Tribunal. The Tribunal is directed to refund the aforesaid amount of ₹6,57,568/- to the appellant-Insurance Company and the balance to respondents No.1 to 3-claimant, less already disbursed to them in compliance of order dated 15.11.2016 of this Court.

Disposed of accordingly.

(Ramendra Jain)
Judge

May 22, 2018
R.S.

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No.