

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5267 of 2015

Date of Decision : 24.07.2018

Kamlesh Rani and another

.....Appellants

Versus

Balwinder Singh @ Ballu and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Manish Kumar Singla, Advocate for the appellants.

Ms. Nisha Malik, Advocate for Mr. L.S. Sidhu, Advocate on
behalf of respondent No.1.

Mr. Gopal Mittal, Advocate for respondent No.3.

Service of respondents No.4 and 5 dispensed with
vide order dated 20.02.2018.

B.S. WALIA (Oral)

1. Mr. Gopal Mittal, Advocate has filed memo of appearance on behalf of respondent No.3 while Ms. Nisha Malik, Advocate for Mr. L.S. Sidhu, Advocate has filed memo of appearance on behalf of respondent No.1. The same are taken on record. However, none has put in appearance on behalf of respondent No.2 despite service. Accordingly, respondent No. 2 is proceeded ex-parte.

2. Grievance of the appellants is with regard to non grant of future prospects despite entitlement, assessment of income @ ₹6,000/- per month

as against the entitlement for assessment of income @ ₹7372/- per month in terms of the minimum wages applicable in the State of Punjab w.e.f. 01.03.2013, denial of compensation as per entitlement qua the conventional heads as also qua reimbursement of medical expenses.

4. Mr. Gopal Mittal, Advocate, appearing on behalf of respondent No.3-Insurance Company contends that opportunity be granted to the Insurance Company to rebut the claim for medical expenses stated to have been incurred since no doctor was examined qua the medical bills Ex.C3 and C4 as also to enable adjudication of the claim for future prospects, besides income of the deceased in the light of minimum wages for the relevant period as also qua conventional heads.

5. I have considered the prayer made. Admittedly, medical bills Ex.C3 and Ex.C4 are on record. However, in view of the prayer on behalf of the Insurance Company for grant of opportunity to lead evidence to rebut the claim, I deem it appropriate to remand the matter to the learned MACT, Faridkot to enable both parties to lead evidence qua the claim for medical reimbursement to arrive at the correct figure payable as also for adjudication of the claim qua future prospects, assessment of income in the light of claim in terms of the minimum wages applicable in the State of Punjab w.e.f. 01.03.2013, as also qua the conventional heads in view of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017 (4) RCR (Civil) 2009.

6. Learned Motor Accidents Claim Tribunal, Faridkot, shall consider the matter in the light of the points noticed above by giving adequate and effective opportunity to the parties to lead evidence in respect thereto.

FAO No.5267 of 2015

Amount already stated to have been paid by the insurance company to the appellants-claimants in terms of award dated 17.04.2015, shall if the situation so warrants, be adjusted against the award as is finally made by the learned Tribunal. Parties through counsel are directed to appear before the learned MACT, Faridkot for proceedings in accordance with law on 02.09.2018.

Registry to transmit the record to the learned Tribunal before the date fixed.

July 24, 2018
sandeep/rajesh

(B.S.Walia)
Judge

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No