

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

**FAO No.7780 of 2016 (O&M)
Date of decision: 10.05.2018**

Oriental Insurance Company Limited

....Appellant

Versus

Saroj Rani and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amit Jaiswal, Advocate,
for the appellant-Insurance Company.

Mr. Padamkant Dwivedi, Advocate,
for respondent No.1.

RITU BAHRI J. (Oral)

Oriental Insurance Company Limited-appellant has filed this appeal against the award dated 29.08.2016 passed by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.14,88,500/- has been awarded in favour of the claimant-respondent No. 1 on account of death of her son Pardeep Kumar in a motor vehicular accident which took place on 08.10.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.10.2014, Pardeep Kumar (since deceased) was present under the shed of Bus Stop, Arti Chowk, Ludhiana for returning to Ferozepur. At about 10.00 P.M., a truck bearing registration No.PB-09-H-9945 being driven by Sukhwinder Singh-

respondent No.2 (respondent No.1 in claim petition) in a rash and negligent manner, came from the side of Bharat Chowk, Ludhiana and struck against the persons standing there, including Pardeep Kumar. One more passenger namely, Pardeep Singh and His brother Jagdeep Singh were also waiting for the bus to go to Jagraon. As a result of this accident, said Pardeep Singh as well as Pardeep Kumar (son of claimant) died at the spot. With regard to the accident, FIR No. 221 of 2014 was registered against the driver of offending vehicle. Consequently, claimant-respondent filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident in question resulting into the death of Pardeep Kumar had taken place due to the rash and negligent driving of the offending vehicle by its driver-respondent No.2 (respondent No.1 in claim petition) and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Jagdeep Singh (PW-3), who was the eye witness of the accident and on whose statement, FIR was registered against the driver. Claimants have further proved on record copy of postmortem report Ex.P1.

Deceased-Pardeep Kumar was doing the work of electrician. On the basis of his income tax returns for assessment years 2013-14 Ex.PW6/A and 2014-15 Ex.PW6/B, the Tribunal assessed the income of deceased as Rs.9500/- per month. In this income, 50% addition was made on account of future prospects, total of which, came to Rs.14,250/- (9500+4750). Out of this, 50% amount was deducted towards his personal expenses. The dependency of claimant, thus, came to Rs.7125/- per month.

The deceased was 27 years of age at the time of accident/death and the multiplier of 17 was applied. Thus, the claimant was found entitled to compensation of Rs.14,53,500/- (7125/- x 12 x 17). In addition to it, Rs.25,000/- were awarded towards funeral expenses and Rs.10,000/- towards loss of estate. Hence, the claimant was found entitled to a total compensation of Rs.14,88,500/-. Feeling dissatisfied with the impugned award, the Insurance Company-appellant has preferred the present appeal.

The Insurance Company is not disputing the finding given by Tribunal on issue No.1 that the accident had been caused on account of rash and negligent driving of the offending vehicle by its driver, which resulted into the death of Pardeep Kumar. The impugned award has been challenged on the ground of quantum of compensation.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. In this case, increase of 50% has been made in the income of the deceased, whereas it should have been 40% as per judgment passed by Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017). Accordingly, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **Pranay Sethi's** case (supra) as under

Sr. No.	HEADS	CALCULATIONS
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(i)	Income	Rs.9500/- per month
(ii)	40% of (i) above to be added as future prospects	9500 + 3800 = Rs.13,300/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	13,300 – 6650 = Rs.6650/-
(iv)	Compensation after multiplier of 17 is applied	Rs.6650/- x 12 x 17 = Rs.13,56,600/-
(v)	Compensation under conventional head	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.13,86,600/-

The total amount of compensation of **Rs.13,86,600/-** shall be payable within a period of two months to the claimant from the date of receipt of certified copy of this order. The total amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of “Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018.” Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the impugned award is modified to the above extent and appeal filed by the insurance company stands partly allowed.

(RITU BAHRI)
JUDGE

10.05.2018
ajp

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