

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.981 of 2015 (O&M)
Date of Decision: February 07, 2018.

National Insurance Company Ltd.
.....APPELLANT(s).

VERSUS

Smt. Mitlesh and others
.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.C. Kapoor, Advocate
for the appellant (s).

None of the respondents.

SURINDER GUPTA, J.

This is appeal by National Insurance Company Ltd. against the award dated 01.10.2014 passed by Motor Accident Claims Tribunal, Palwal (later referred to as 'the Tribunal') allowing compensation to the claimants-respondents No.1 to 4 on account of death of Rajbir in a motor vehicle accident, which took place on 10.02.2012 due to rash and negligent driving of truck bearing Registration No.HR30G-7077 (later referred to as 'the offending vehicle').

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The tribunal computed the compensation as follows:-

(i)	Name of the deceased	Rajbir
(ii)	Age of the deceased	40 years
(iii)	Income of the deceased	₹5000/- p.m.

(iv)	Addition towards future prospects@50%	₹5000+2500=₹7500 p.m.
(v)	Deduction towards personal expenses @ 1/4 th	₹7500-₹1875=₹5625 p.m. i.e. ₹67500 p.a.
(vi)	Multiplier applied 15	₹67500X15 = ₹1012500
(vii)	Loss of consortium	₹10000
(viii)	Funeral and transportation expenses	₹10000
<i>Total</i>		₹10,32,500/-

Learned counsel for the appellant has argued that as per the law laid down in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***, claimants are entitled to 25% addition in the income of the deceased in a motor accident, whose age was 40 years. The tribunal in this case has awarded addition of 50% in the income of the deceased, which is on higher side.

Respondents in this case were duly served but none has appeared on their behalf to contest the appeal filed by the insurance company.

The law relating to grant of future prospects and compensation to be awarded under conventional heads, has been settled by Constitution Bench of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others***(supra), wherein it has been observed that in case of a deceased in motor accident, whose age is between 40 to 50 years and he is self-employed or having private employment, an addition of 25% is to be made in his income towards future prospects. For loss of consortium, a sum of ₹40,000/- and for funeral expenses, a sum of ₹15,000/- can be allowed.

However, on perusal of award, I find that the accident took place on 10.02.2012 at about 8.00 p.m. After the accident, deceased was

shifted to Govt. Hospital, Palwal by his brother Ranbir from where, he was

referred to B.K. Hospital, Faridabad but was admitted in Om Spero Hospital, where he died on 11.02.2012 due to the injuries suffered by him. The tribunal has not allowed any compensation towards medical treatment, transportation and attendant charges. Though, no specific evidence in this regard has come on record but keeping in view the facts and circumstances, a consolidated amount of ₹50,000/- can be allowed on this score.

Keeping in view the above facts, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹5000 per month
(ii)	25% of above (i) to be added as future prospects	(₹5000+₹1250)= ₹6250 per month
(iii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹6250-₹1562)= ₹4688 p.m.
(iv)	Compensation after multiplier of 15 is applied	(₹4688X12X15)= ₹843840
(v)	Loss of consortium	₹40000
(vi)	Funeral expenses	₹15000
(vii)	Medical treatment, transportation, attendant charges, etc.	₹50000/-
<i>Total</i>		₹9,48,840/-

The appeal is partly allowed. Impugned award passed by the tribunal is modified to the extent that claimants are entitled to total compensation of ₹9,48,840/- along with interest as awarded by the tribunal. Appellant-insurance company shall be entitled to recover excess amount of compensation, if any, already paid, from the claimants.

February 07, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No