

FAO-3199-2017 (O&M) and
Cross objection No.113-CII-2017

-1-

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

FAO-3199-2017 (O&M) and
Cross objection No.113-CII-2017 (O&M)
Date of decision :27th September, 2018

UNITED INDIA INSURANCE CO. LTD

.....Appellant

Versus

MANPREET KAUR AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Suman Jain, Advocate, for the appellant.

Mr. Garvit Kalra, Advocate for the respondents No. 1 to 3.

Mr. Ashok Paul Batra, Advocate for respondent No.4.

-*-

DEEPAK SIBAL , J (ORAL)

The present appeal instituted at the instance of the Insurance Company is directed against the award dated 11.01.2017, passed by the Motor Accident Claims Tribunal, SAS Nagar (Mohali) (for short, the Tribunal). In the appeal the claimants have also filed cross-objections and the present order would dispose of the appeal as also the cross-objections.

FAO-3199-2017

Learned counsel for the appellant-Insurance Company submits that through the impugned award the Tribunal has held the claimants entitled to “future prospects” @ 50% and has also granted a compensation

of ₹2,25,000/-, under the conventional heads of “loss of consortium”, “loss of estate” and “funeral expenses” whereas, in view of the recent pronouncement by a Constitution Bench of the Hon'ble Supreme Court in “*National Insurance Company Limited vs. Pranay Sethi and others*” (2017) 16 SCC 680, “future prospects” @ 40% could have been granted and under the conventional heads of “loss of consortium”, “loss of estate” and “funeral expenses”, a cumulative sum of ₹70,000/- could and should have been granted.

Learned counsel for the respondents-claimants very fairly submits that in view of the law laid down by the Hon'ble Supreme Court in *Pranay Sethi's* case (supra) the aforesaid submissions raised by the learned counsel for the Insurance Company deserves acceptance.

In view of the above concession as also after applying the law laid down by the Hon'ble Apex Court in *Pranay Sethi's* case (supra) the impugned award is modified to the extent that instead of 50% the claimants shall be entitled to “future prospectus” @40% and under the conventional heads of “loss of consortium”, “loss of estate” and “funeral expenses” instead of ₹ 2,25,000/- they shall be entitled to ₹70,000/-.

Cross Objection No.113-CII-2017

Learned counsel for the claimants has argued that the income of the deceased had wrongly been assessed at ₹7500/- per month. According to him since the deceased was a semi-skilled workman he was entitled to at least the prescribed minimum wages which on the date of the accident were ₹ 7633/- per month.

A perusal of the award shows that it were the claimants who after leading of evidence had proved that the deceased was earning a monthly salary of ₹7500/-. That being so, they are estopped from raising the plea as sought to be raised on their behalf in the present cross-objections.

No other point was urged by either the learned counsel for the appellant-Insurance Company or by the respondents-claimants.

In view of the above, the appeal of the Insurance Company is allowed with the above modifications in the impugned award and the cross-objections filed by the claimants are dismissed.

(DEEPAK SIBAL)
JUDGE

27.09.2018

tarun

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No