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

**FAO No.3426 of 2017 (O&M)
Date of Decision:- 30.5.2018**

Cholamandlam MS General Insurance Co. Ltd.
….Appellant

Versus

Neeraj Sikri and others
....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

None for the respondents.

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Gurvinder Singh Gill, J. (Oral)

1. The appellant-insurer has filed this appeal assailing award dated 19.1.2017 passed by learned Motor Accident Claims Tribunal, Karnal whereby the claimants have been awarded compensation to the tune of ₹35,04,544/- on account of death of Sanjeev Sikri.

2. Learned counsel for the appellant has submitted that he restricts his prayer to extent of assailing the quantum of compensation inasmuch as the learned Tribunal while assessing the compensation has added 30% towards 'future prospects' to the assessed income as against the mandate of Hon'ble Supreme Court in *(2017) 16 SCC 680 National Insurance Company Limited Vs. Pranay Sethi and others,* wherein it has been held that in case where the age of deceased is between 40 to 50 years and he is self employed, it is an amount equivalent to 25% of the salary, which can be added towards 'future

prospects'.

3. The aforesaid contentions do carry weight and are in tune with the mandate of Hon'ble Supreme Court in *Pranay Sethi's* case (supra). Consequently, the amount added by the learned Tribunal towards 'future prospects' needs to be decreased from 30% to 25%.

4. The monthly income of the deceased has been assessed as ₹25,308/-. After adding future prospects @ 25%, the monthly income would work out to ₹31,635/- (₹25308 + 25% = ₹31,635/-). After deducting 10% on account of approximate deduction towards income tax, the balance amount would be ₹28,471/-. After deduction of 1/3rd towards personal expenses, the monthly dependency would work out to ₹18,981/- (₹28,471 – ₹9490 = ₹18,981/-). In other words, the annual dependency would be ₹2,27,772/- (₹18,981 X 12 = ₹2,27,772/-). After applying multiplicand of 13, the compensation would work out to ₹29,61,036/-.

5. Similarly, I find that the amount awarded on account of loss of consortium @ ₹1,00,000/-; towards loss of funeral & transportation etc. @ ₹25,000/- towards loss of love and affection @ ₹3,00,000/- is unjustified and the same needs to be scaled down. Bearing in mind the dictum of Hon'ble Supreme Court in *Pranay Sethi's* case (supra), the amount of compensation as awarded under the aforesaid three heads, is modified and the claimants are awarded the following sums under below mentioned heads:-

1.	Loss of consortium	₹40,000/-
2.	Funeral Expenses	₹15,000/-
3.	Loss of estate	₹15,000/-

6. Consequent upon the reduction in compensation under the above mentioned heads, the award in question is modified and it is held that the claimants are held entitled to compensation to the tune of ₹30,31,036/- instead of ₹35,04,544/- along with interest 7.5% payable from the date of filing of claim petition till realization. Both the respondents are held liable to pay the compensation jointly and severally. However, since the vehicle in question is insured, the insurer in terms of its contractual liability shall indemnify respondent No.1.

7. The compensation shall be shared by the claimants in accordance with the proportion defined by the tribunal.

8. The appeal stands accepted with the modification as indicated above.

May 30, 2018 **(Gurvinder Singh Gill)**
sandeep **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No