

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

XOBJC No.120-II of 2018 in/and
FAO No.1286 of 2018 (O&M)
Date of decision : 20.07.2018

National Insurance Company Ltd.

...Appellant

Versus

Saroj Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Suri, Advocate for the appellant.

Ms. Prabhjot Kaur, Advocate for respondent Nos.1 to 5.

ANIL KSHETARPAL, J. (ORAL)

By this judgment, appeal as well as cross-objections shall stand disposed of.

Surjit Kumar, aged about 30 years had died in a motor vehicular accident which took place on the intervening night of 9th and 10th March, 2017. Only dispute which has been argued before this Court is with regard to the quantum of compensation.

Learned counsel for the Insurance Company has submitted that the Motor Accident Claims Tribunal has assessed the income of the deceased at ₹10,000/- per month without any evidence in support thereof.

On the other hand, learned counsel for the claimant has submitted that Surjit Kumar was a Transporter and owner of a trailer-Multi-Axles and Registration Certificate has been produced on file as Ex.P2. Hence, she submitted that rather the income assessed is on the lower side.

Learned counsel for the Insurance Company has further submitted that on account of increase in the income with reference to future prospects, the Motor Accident Claims Tribunal has enhanced the income by adding 50% which should be 40% as per the judgment of the Constitution Bench in the case of **National Insurance Company Vs. Pranay Sethi and others, 2017(10) SC 450.**

Learned counsel for the Insurance Company has further submitted that on account of conventional heads, ₹2,25,000/- has been awarded which can at the most be ₹70,000/-, which is as follows:-

- | | | |
|------|----------------------------|-----------|
| i) | Loss of love and affection | ₹15,000/- |
| ii) | Loss of consortium | ₹40,000/- |
| iii) | Funeral Expenses | ₹15,000/- |

Learned counsel for the claimant does not join the issue on these submission of learned counsel for the Insurance Company.

On examination of the evidence available on the file, and keeping in view the fact that the deceased was owner of trailer, his income cannot be treated at par with that of unskilled labour, whose minimum wages are ₹7,560/-. In such circumstances, the income assessed by the Court is not on the higher side. A owner of the trailer which is having Multi-Axles, income assessed, cannot be said to be on the higher side.

With regard to the other argument, since counsel for the respondent has fairly stated that as per the judgment passed by the Constitution Bench in the case of National Insurance Company's case (Supra), the amount payable has to be re-worked as under:-

<i>Death Case</i>		
Name of the deceased	Surjit Kumar	
Date of Award	13.10.2017	
Amount of compensation awarded by MACT	₹25,20,000/-	
Date of Accident	09/10.03.2017	
Age of the deceased	30 years	
Occupation	Unskilled Worker	
Heads	Awarded by the Tribunal	Awarded by the High Court
Income assessed	₹10,000/- per month	₹10,000/- per month
(+) future prospects	+ (50%) = ₹5,000/-	+ (40%) = ₹4,000/-
	₹15,000/- per month	₹14,000/- per month
Annual Dependency	₹15,000/- x 12 = ₹1,80,000/-	₹14,000/- x 12 = ₹1,68,000/-
(-) Deduction (1/4 th)	(-) ₹45,000/-	(-) ₹42,000/-
Total	₹1,35,000/-	₹1,26,000/-
Multiplier	₹1,35,000/- x 17	₹1,26,000/- x 17
	= ₹22,95,000/-	= ₹21,42,000/-
<u>Conventional Heads</u>		
Loss of Consortium	₹1,00,000/-	₹40,000/-
Loss of love and affection	₹1,00,000/-	₹15,000/-
Funeral Expenses	₹25,000/-	₹15,000/-
Total	₹25,20,000/-	₹22,12,000/-

The amount of compensation shall be payable alongwith interest at the rate of 7.5% p.a. from the date of the claim petition till the payment.

In view of the above, the present appeal and cross-objections are disposed of.

20.07.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No