

In the High Court of Punjab and Haryana at Chandigarh

**FAO No. 1291 of 2018(O&M)
Date of Decision: 16.3.2018**

New India Assurance Company Limited

---Appellant

versus

Sarvjeet Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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

Rekha Mittal, J.

CM No.4572 of -CII of 2018

Prayer in this application is for condoning delay of 18 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Pushpa Bhardwaj, Deputy Manager, New India Assurance Company Limited and arguments advanced by counsel for the applicant, application is allowed and delay of 18 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No. 1291 of 2018

The insurance company has assailed award dated 27.10.2017 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali (in short "the Tribunal") whereby compensation has been awarded on account of death of Gurvinder Singh in a motor vehicular accident that took place

on 4.3.2015.

Counsel for the appellant, at the outset, would inform that the appeal has been preferred to challenge quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs. 18,45,000/- , detailed hereunder:-

Monthly income	Rs.9,000/-
Annual income	Rs.9000/- x 12 = Rs.1,08,000/-
50% future prospect	Rs.54,000/-
Total income of deceased	Rs.1,62,000/-
Personal living expenses (1/3)	Rs.54,000/-
Income after deduction of personal and living expenses	Rs.1,08,000/-
Multiplier	15 (Fifteen)
Loss of dependency	Rs.1,08,000/- x 15 = Rs.16,20,000/-
Loss of consortium to widow	Rs.1,00,000/-
Loss of love, affection	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-
Total	Rs.18,45,000/-

Counsel for the insurance company would urge that the Tribunal has allowed benefit of increase in income for future prospects @ 50% as against 40% admissible in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. Compensation awarded under conventional heads needs to be restricted to Rs. 70,000/- in the light of aforesaid judgment.

Contention raised by counsel for the insurance company is meritorious when the case is examined in the light of judgment in **Pranay Sethi and others' case (supra)**. Claimants shall be entitled to benefit of increase in income for future prospects @ 40% as the deceased was 37 years old but not a government employee. Compensation under conventional

heads would be Rs. 70,000/- in place of Rs. 2.25 lakhs, detailed hereunder:-

Loss of consortium to widow	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

In view of the above, loss of dependency comes to Rs. 15,12,000/- (Rs. 9000 x12 x15= 16,20,000 +6,48,000(40%)= 22,68,000 – 7,56,000(1/3rd).

The total compensation is Rs. 15,82,000/-. Compensation awarded by the Tribunal is reduced to the extent of Rs. 2,63,000/- (18,45,000 – 15,82,000).

The appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that compensation has been reduced without notice to the claimants. The claimants would be at liberty to file an application before this Court if they have any grievance to express. It is further clarified that any observations made hereinbefore shall not cause prejudice to the claimants if they file an appeal for enhancement.

(Rekha Mittal)
Judge

16.3.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No