

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

FAO No.1540 of 2018 (O&M)

Date of Decision: March 22, 2018

Cholamandlam MS General Insurance Co. Ltd. ...Appellant

Versus

Kamlesh Rani and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Sanjeev K.Arora, Advocate for the appellant - insurer.

Mr.Pankaj Katia, Advocate for claimants-respts No.1 to 4.

HARINDER SINGH SIDHU, J.

For the reasons stated in the application, delay of 9 days in filing the appeal is condoned.

By filing the present appeal, the Insurance Company has challenged the award dated 25.10.2017 passed by the Motor Accident Claims Tribunal, SAS Nagar Mohali (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 10.09.2016 in the area of Village Daumajra on Kurali-Kharar road, a vehicular accident took place involving Motorcycle No.PB-65Y-9881 (herein for short 'the offending vehicle'), wherein, Vikram Kumar suffered multiple injuries. He was taken to Civil Hospital, Kharar, from where, he was referred to PGI, Chandigarh, but he could not survive and breathed his last on 16.09.2016. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. It was also stated that when the eye

injured, Balwinder Kumar, driver of the offending vehicle lodged a DDR to save his skin.

On a claim petition having been filed by the legal representatives of Vikram Kumar, the Tribunal assessed the income of the deceased at Rs.9000/- per month, with addition of 50% towards future prospects, deducted 1/4th towards his personal expenses, applied the multiplier of 17 (deceased aged 26 years). The loss of dependency was assessed at Rs.20,65,500/-. Besides, sum of Rs.1,00,000/- towards 'loss of consortium', Rs.25,000/- as 'funeral expenses' and Rs.20,000/- towards 'loss of love and affection' were awarded. In all, compensation of Rs.22,10,500/- along with interest was awarded.

While challenging the impugned award, the argument raised by Ld. Counsel for the appellant – insurer is that the Tribunal erred in assessing the monthly income of the deceased at Rs.9000/- without any evidence in support of his earnings. He argued that even if the deceased is taken to be a semiskilled labourer his income could not be assessed higher than the Minimum Wages which would be Rs.8238.56 per month on 10.09.2016 (the date of accident) as per the Notification of the Labour Commissioner, Punjab, in relation to Minimum Rates of Wages (w.e.f. 1.9.2016). It is also argued that the future prospects should also have been @ 40% only and not 50% as awarded by the Tribunal. He has further added that the amount awarded under the conventional heads is also on the higher side.

Ld. Counsel for the claimants – respondents, though, tried to defend the assessment of income of the deceased by the Tribunal, but could

not deny the factual argument raised by Ld. Counsel for the insurer – appellant, based on the rates of Minimum Wages.

Having heard learned counsel for the parties and relying on the decision of the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others (2017) 16 SCC 680** the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Monthly Income	8238.56
(ii)	40% of above (i) to be added as future prospects (deceased aged 26 yrs.)	8238.56+(8238.56x40/100) = 11533.98 (rounded off at 11534/-)
(iii)	Loss of income (1/4 th of (ii) deducted as personal expenses of the deceased - four dependants)	11534-(11534x1/4)= 8650.50 per month
(iv)	Loss of dependency after multiplier of 17 is applied	8650.5x12x17= 1764702/-
(v)	Loss of Consortium (Exclusively payable to the widow of deceased)	Rs.40,000/-
(vi)	Loss of Estate	Rs.15,000/-
(vii)	Funeral Expenses	Rs.15,000/-
	Total	Rs.18,34,702/-

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the appellant is held entitled to total compensation of Rs.1834702/-, that is, Rs.3,75,798/- (2210500-1834702) less than the amount awarded by the Tribunal.

March 22, 2018

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No