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

FAO No.2762 of 2018 (O&M)
Date of Decision: May 18, 2018

Iffco Tokio General Insurance Company ...Appellant

Versus

Kuldeep Kaur and others ...Respondents

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

Present: Mr.Swati Batra, Advocate
for the appellant – Insurance Company.

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HARINDER SINGH SIDHU, J.

For the reasons stated in the application, the delay of 126 days in filing the appeal is condoned.

The insurer has filed the present appeal challenging the award dated 13.09.2017 of the Motor Accident Claims Tribunal, Ferozepur (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 26.6.2014 in the area of Quality Palace, Talwandi Bhai a vehicular accident took place involving Honda Amaze car No.PB-57-0001 (herein for short 'the offending vehicle'), wherein, Kulwinder Singh lost his life. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

The Tribunal assessed the income of the deceased at Rs.8125/- per month, awarded addition of 50% towards future prospects, deducted ½ towards his personal expenses, applied the multiplier of 18 (deceased, a bachelor aged 23 years). The loss of dependency was assessed at Rs.13,16,304/-. Amount of Rs.1,00,000/-, each, for all four claimants (mother, sisters and brother) towards 'loss of love and affection' – respondents and Rs.25,000/- as 'funeral expenses' were also awarded. In all, compensation of Rs.17,42,000/- (rounded off) along with interest was awarded.

Ld. Counsel for the appellant – Insurer, relying on the decision of the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others** **(2017) 16 SCC 680**, has contended that the Tribunal erred in awarding 50% future prospects, which should have been 40% only. It is also contended that the amount awarded under the conventional heads is also not in consonance with the law.

Having heard learned counsel for the appellant and in the light of **Pranay Sethi's** case (supra), the compensation is re-assessed as under:-

Sr.No.	**Heads**	**Calculation (In Rs.)**
(i)	Monthly Income	8125/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 23 yrs.)	8125+(8125x40/100) = 11375/-
(iii)	Dependency (½ of (ii) deducted as personal expenses of the deceased – a bachelor)	11375-(11375x1/2)= 5687.50 per month
(iv)	Loss of dependency after multiplier of 18 is applied	5687.5x12x18= 1228500/-
(v)	Loss of Estate	Rs.15,000/-
(vi)	Funeral Expenses	Rs.15,000/-
	Total	***Rs.12,58,500/-***

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the respondents – claimants are held entitled to compensation of Rs.12,58,500/-, that is, Rs.5,13,500/- (1742000-1258500) less than the amount awarded by the Tribunal. The compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its payment.

The appeal has been disposed of without notice to the respondents – claimants to avoid unnecessary delay and expense. A copy of this order be conveyed to the claimants-respondents No.1 to 4. In the event of the said respondents having any objection, they may file application to that effect. On receipt of any such application, the same be listed for hearing.

It is made clear that this order has been passed on an appeal filed by the Insurance Company without hearing the claimants and is confined to the contentions raised herein. It is without prejudice to the rights of the claimants to separately agitate for enhancement on any ground that may be available to them.

May 18, 2018 **(HARINDER SINGH SIDHU)**
gian **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No