

Iffco Tokio General Insurance Company Ltd. ....Appellant

Vs.

Darshan Kumari and others .....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vishal Aggarwal, Advocate, for the appellant/Insurance Co.

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RITU BAHRI, J. (ORAL)  
CM No.10312-CII of 2018

For the reasons stated in the application, delay of 14 days in filing the appeal is condoned.  
Application stands disposed of.

Main Case

Present appeal has been preferred by the appellant/Insurance Company (for short 'the appellant'), against award dated 18.01.2018, passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal') on the short ground that compensation granted on account of conventional heads is on the higher side.

The Tribunal held that the deceased was 30 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed by the learned Tribunal as under:

| Sr.No. | Heads of compensation                   | Amount                                 |
|--------|-----------------------------------------|----------------------------------------|
| 1      | Salary per month (as per minimum wages) | Rs.7500/-                              |
| 2.     | 1/3 <sup>rd</sup> deduction             | Rs.7500/- --- Rs.25,00/-=<br>Rs.5000/- |

|    |                                                         |                                         |
|----|---------------------------------------------------------|-----------------------------------------|
| 3. | Future prospect 40%                                     | Rs.5,000/- + Rs.2,000/-=<br>Rs.7000/-   |
| 4. | Annual loss of dependency after applying the multiplier | Rs.7,000/- X 12 X 17=<br>Rs.14,28,000/- |
| 5. | Loss of consortium                                      | Rs.40,000/-                             |
| 5. | Loss of old age support                                 | Rs.50,000/-                             |
| 6. | Funeral and Transportation expenses                     | Rs.15,000/-                             |
|    | Total                                                   | Rs.15,33,000/-                          |

Learned counsel for the appellant/Insurance Company submits that as per larger Bench judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**, the compensation has been granted only Rs.70,000/- on account of statutory/conventional heads, whereas in the present case learned Tribunal has awarded Rs.1,05,000/-. So, in view of the above said judgment, the compensation has been assessed on account of statutory heads should have been reduced.

In view of the above, the Award has to be modified only with respect to conventional heads. Keeping in view that the claimants are a widow and a minor child and the mother of deceased, this Court will not issue any notice to the claimants and Award is modified in view of the abovesaid judgment (Pranay Sethi supra) as under:

| Sr.No. | Heads of compensation                                   | Amount                                  |
|--------|---------------------------------------------------------|-----------------------------------------|
| 1      | Salary per month (as per minimum wages)                 | Rs.7500/-                               |
| 2.     | 1/3 <sup>rd</sup> deduction                             | Rs.7500/- --- Rs.25,00/-=<br>Rs.5000/-  |
| 3.     | Future prospect 40%                                     | Rs.5,000/- + Rs.2,000/-=<br>Rs.7000/-   |
| 4.     | Annual loss of dependency after applying the multiplier | Rs.7,000/- X 12 X 17=<br>Rs.14,28,000/- |
| 5.     | Conventional heads                                      | Rs.70,000/-                             |
|        | Modified compensation                                   | Rs.14,98,000/-                          |

Rs.14,98,000/- shall be payable within a period of one months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. And ors. in Civil Appeal No.448 of 2018.** Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

**(RITU BAHRI)**  
**JUDGE**

**18.05.2018**

*anil*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*