

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

FAO No.2931 of 2018 (O&M)

Date of Decision: May 31, 2018

Oriental Insurance Company Limited

...Appellant

Versus

Munni Devi and others

...Respondents

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

Present: Mr. Varun Sharma, Advocate
with Mr. Satpal Dhamija, Advocate
for the appellant-Insurer.

HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 16.11.2017 passed by the Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 22.11.2015 near the river of Nangal Chaudhary, a vehicular accident took place involving Tractor No.HR-35H/823 (herein for short 'the offending vehicle'), wherein, Praveen Kumar 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.9,880/- per month, awarded addition of 40% 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.14,93,856/-. Besides, sum of Rs.15000/- as 'transportation, funeral and last rites' and Rs.15000/- towards 'loss of estate' were awarded. In all, compensation of Rs.15,23,856/- along with interest was awarded.

Challenging the Award, Ld. Counsel for the appellant – Insurer has argued that though the Tribunal treated the deceased as a daily wager, but it erred in assessing his income at Rs.9880/- per month, which are the rates of wages of employees paid out from the contingencies for various departments in District Mahendergarh . It is submitted that the assessment of income ought to have been made as per the minimum wages prevalent at the relevant time in the State.

As per the notification dated October 21, 2015 of Labour Department, Government of Haryana relied on by the Ld. Counsel, Minimum Wages per month in Haryana w.e.f., November 1, 2015 for unskilled workers were Rs.7600/-.

Accordingly, in view of 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	7600/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 23 yrs.)	$7600 + (7600 \times 40/100) = 10,640/-$
(iii)	Monthly dependency (1/2 of (ii) deducted as personal expenses of the deceased-bachelor)	$10,640 - (10640 \times 1/2) = 5320/-$
(iv)	Loss of dependency after multiplier of 18 is applied	$5320 \times 12 \times 18 = 11,49,120/-$
(v)	Loss of Estate	15,000/-

(vi)	Funeral Expenses	15,000/-
	Total	11,79,120/-

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the appellant is held entitled to compensation of Rs.11,79,120/-, that is, Rs.3,44,736/- (1523856-1179120) less than the amount awarded by the Tribunal.

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 and 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 31, 2018

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No