

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.6593 of 2017 (O&M) with
XOBJC-224-CII-2017

Date of decision: 05.02.2018

The Oriental Insurance Company Ltd.

..... Appellant

Versus

Abhey Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Lalit Garg, Advocate
for the appellant.

Mr. Deepak Jindal, Advocate
for respondents No.1 and 2/Cross-Objectors.

ANIL KSHETARPAL, J. (ORAL)

CM-21277-CII-2017

Delay in filing the appeal is condoned and the application is allowed.

Main Case

Appeal filed by the Insurance Company and the cross objections filed by the claimants have come up for final disposal. Learned counsels have waived service of notice.

A young boy of 25 years died in a motor vehicular accident on 08.06.2014. Learned counsel for the Insurance Company has vehemently argued that as per the judgment of the Constitutional Bench reported as National Insurance Company Ltd. Vs. Pranay Sethi, 2017(4), RCR (Civil),

1009, future prospects could only be 40% and not 50%. He has further

submitted that income of the deceased in the absence of any concrete proof had to be taken as per the notification of the minimum wages which according to him is Rs.6,000/-.

He has further submitted that under the conventional heads, parents would only be awarded Rs.30,000/- and not Rs.1,50,000/-.

On the other hand, learned counsel for the claimants has vehemently argued that the deceased was a young boy and he had a bright future ahead. Learned trial Court has already applied a cut of 50% and therefore, no further deduction is possible.

This Court has carefully heard the arguments of learned counsel for the parties and with their able assistance gone through the judgment passed by the learned Motor Accident Claims Tribunal.

As per the discussion made by the learned Motor Accident Claims Tribunal, the deceased was unemployed but was looking for a job. It has further come in evidence that he had appeared in a test for being recruited as a Rifleman in the Security Force. However, he missed the selection only by three marks. The Court has further held that the deceased was enjoying a robust health.

Keeping in view the aforesaid facts, this Court does not find that the income assessed by the Court is on the higher side . The minimum wages are to be taken as an assumed income only in case the deceased was a totally uneducated and was not having any skills. Here is a case where the deceased was looking for the job and missed the opportunity just by small margin.

However, there is force in the argument of learned counsel for the appellant-Insurance Company that the future prospects can only be

added to the extent of 40% as per the judgment of the Constitutional Bench.

Learned counsel is further correct in submitting that under the conventional heads, only Rs.30,000/- could be awarded.

In view thereof, the award passed by the learned Motor Accident Claims Tribunal, Rewari is modified in the following manner:-

<i>Heads</i>	<i>Compensation awarded by MACT, Rewari</i>	<i>Compensation awarded by High Court</i>
Income	Rs.8,000/-	Rs.8000/-
+ Future prospects	(50%) Rs.4000/- 8000 + 4000 = Rs.12,000/-	(40%) Rs.3200/- 8000 + 3200 = Rs.11,200/-
- 50% Deduction	12,000 – 6,000 = 6,000/-	11,200 – 5600 = 5600/-
Multiplier of 18 with annual dependency	6000X12X18 = 12,96,000/-	5600X12X18= 12,09,600/-
Loss of estate	Rs.25,000/-	Rs.15,000/-
Funeral expenses	Rs.25,000/-	Rs.15,000/-
Loss of love and affection	Rs.1,00,000/-	Nil
Medical Expenses	Rs.5,58,680/-	Rs.5,58,680/-
Ambulance Charges	Rs.11,000/-	Rs.11,000/-
Total Compensation awarded	Rs.20,15,680/-	Rs.18,09,280/-

Appeal as well as cross objections are disposed of.

05.02.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Whether Reportable

Yes / No

Yes / No