

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

**FAO No.8030 of 2017
Date of decision: 20.04.2018**

New India Assurance Company Ltd.

....Appellant

Versus

Smt. Savita and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amit Kundra, Advocate,
for the appellant-Insurance Company.

Mr. Vipul Sharma, Advocate,
for respondent Nos.1 to 4-claimants.

RITU BAHRI J. (Oral)

New India Assurance Company Ltd.-appellant has filed this appeal against the award dated 29.07.2017 passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.18,26,000/- has been awarded in favour of the claimants-respondent Nos. 1 to 4 on account of death of Chetan Sharma in a motor vehicular accident which took place on 17.12.2015. Respondent No. 1 is widow, respondent No.2 is son and respondent Nos.3 & 4 are parents of deceased Chetan Sharma.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.12.2015, at about 4.30 a.m., Chetan (since deceased), Mir Singh and other persons were returning to their village on their respective tractors. When they reached near western wall of HPR, Petrol Pump, a trolly/trailer bearing registration No. MP-14-HB-0167, being driven by Mahaveer (respondent No.1 in claim petition) in

a rash and negligent manner, came from behind and hit the tractors, as a result of which, three persons died and one person received injuries. Driver of the trolly/trailer fled away by from the spot. With regard to the accident, FIR No.1230 dated 17.12.2015, under Sections 279/337/304-A IPC was registered at Police Station, Jhajjar against driver of the offending vehicle on the statement of Satbir @ Satal. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by Mahaveer and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Satbir Singh @ Satal (PW-3) and Krishan (PW-6), who were eye witnesses of the accident. Further, the claimants have also proved on record copy FIR Ex.P3, copy of challan Ex.P4 and charge-sheet Ex.P5. Compensation was assessed by the Tribunal, as under:-

Sr. No.	Heads	Calculation
1	income	Rs.7000/- per month
2.	After adding 50% of (i) above (to be added as future prospects)	Rs.7000 + 3500 = Rs.10,500/-
3.	After deducting ¼ of (ii) (deducted as personal expenses of the deceased)	Rs.10,500 x ¾ = 7875/- per month i.e. 7875 x 12 = Rs.94,500/- annually
4.	Compensation after multiplier of 18 is applied	Rs.94,500 x 18 = Rs.17,01,000/-
5.	Loss of consortium, loss of love and affection, loss of estate etc.	Rs.1,00,000/-
6.	Funeral and transportation expenses	Rs.25,000/-

	Total Compensation awarded	Rs.18,26,000/-
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Hence, the claimants were found entitled to a total compensation of Rs.18,26,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the Insurance Company-appellant has preferred the present appeal.

The appellant (Insurance Company) has challenged the impugned award only on a short ground that compensation should be awarded as per the judgment passed by Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017).

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Deceased was 24 years of age at the time of death. His income has been assessed as Rs.7000/- per month, which was roughly equivalent to the minimum wages prevalent at that time. However, 50% increase has been granted by the Tribunal on account of future prospects, which is on the higher side. As per aforesaid judgment given in **Pranay Sethi's** case (supra), 40% increase should have been granted on account of future prospects and Rs.70,000/- should have been granted under the conventional heads. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **Pranay**

Sethi's case (supra), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.7000/- per month
(ii)	40% of (i) above to be added as future prospects	7000 + 2800 = Rs.9800/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9800 – 2450 = Rs.7350/-
(iv)	Compensation after multiplier of 18 is applied (age 24 years)	Rs.7350/- x 12 x 18 = Rs.15,87,600/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.16,57,600/-

The amount of compensation of **Rs.16,57,600/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The 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 the case of Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018. Remaining conditions of disbursal of amount shall remain unaltered.

The impugned award is modified to the above extent and present appeal stands partly allowed accordingly.

(RITU BAHRI)
JUDGE

20.04.2018
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No