

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

Date of decision : September 12, 2018

1. FAO No.582 of 2018 (O&M)

Prem and others vs Pyare Lal and others

2. FAO No.8540 of 2017 (O&M)

The Oriental Insurance Co. Ltd vs Prem and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Anshuman Dalal, Advocate
for the appellants in FAO No.582 and
for respondents No.1 to 4.

Mr. Sanjiv Pabbi, Advocate
for the appellant in FAO No.8540 of 2017 and
for respondent No.4 in FAO No.582 of 2018.

Ajay Tewari, J (Oral)

C.M No.1729 CII of 2018 in
FAO No.582 of 2018

For the reasons recorded, this application is allowed and delay
of 7 days in filing the appeal is condoned.

C.M No.27839 CII of 2017 in
FAO No.8540 of 2017

For the reasons recorded, this application is allowed and delay
of 16 days in refiling the appeal is condoned.

FAO Nos.582 of 2018 & 8540 of 2017

This order shall dispose of both the FAOs.

Mr. Aman Dhir, Advocate was appointed as a legal aid counsel.

However, the claimants have now filed the appeal for enhancement through

Shri Anshuman Dalal, Advocate and, therefore, service of Mr. Aman Dhir,

Advocate is no longer required and he is gratefully discharged from the Court.

FAO No.582 of 2018 has been filed by the claimants for enhancement of compensation, while FAO No.8540 of 2017 has been filed by the Insurance Company against the Award. Since a very limited issue is involved in these appeals, further reference to the detailed facts would not be necessary.

Counsel for the Insurance Company points out that future prospects could not be more than 40%, and under the conventional heads, a sum of ₹ 2.25 lakhs has been awarded, whereas it could not be more than ₹70,000/-, in view of the decision of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009.

Counsel for the claimants has argued that the monthly income of the deceased assessed by the Tribunal viz ₹ 11,000/- is too little, since he was not only a driver he also owned the vehicle.

I find some merit in the arguments raised by counsel for the parties. In the circumstances, it has to be held that whatever extra amount (which has been shown by the Insurance Company) was awarded has been the offset by the reduced income. Ordered accordingly. Consequently, both the appeals are dismissed.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

September 12, 2018
'kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No

