

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

FAO No.699 of 2018 (O&M)

Date of Decision: April 30, 2018

National Insurance Co. Ltd.

...Appellant

Versus

Swarandeep Kaur and others

...Respondents

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

Present: Mr.Rajesh Verma, Advocate
for the appellant – Insurance company.

HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 22.09.2017 passed by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short 'the Tribunal'). Brief facts as disclosed in the claim petition are that on 19.07.2016 in the area Village Rampur Chamloti, a vehicular accident took place involving tipper truck No.PB07-AS-2202 (herein for short 'the offending vehicle'), wherein, Harwinder Singh 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 10,000/- per month, added 50% towards future prospects, deducted 1/3rd towards his personal expenses, applied the multiplier of 16 (deceased aged 35 years).

The loss of dependency was assessed at Rs.19,20,000/-. Besides, sum of

Rs.25,000/-, each, towards 'funeral expenses' and Rs.1,00,000/- towards 'loss of love and affection' was also awarded. In all, Rs.20,45,000/- compensation of along with interest was awarded.

Learned Counsel for the appellant-Insurance Company has challenged the quantum of compensation based on the decision of the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others (2017) 16 SCC 680. He argued that increase on account of future prospects ought to have been @ 40% and not 50%. He also contended that the amount awarded under the conventional heads also needs to be reduced in the light of the aforesaid decision.

Accordingly, the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Monthly Income	10,000/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 35 yrs.)	10000+(10000x40/100)= 14,000/-
(iii)	Loss of income (1/3 rd of (ii) deducted as personal expenses of the deceased - three dependants)	14000-(14000x1/3)= 9,333/- per month (rounded off)
(iv)	Compensation after multiplier of 16 is applied	9333x12x16= 17,91,936/-
(v)	Loss of Consortium (Exclusively payable to the widow of deceased)	Rs.40,000/-
(vi)	Loss of Estate	Rs.15,000/-
(vii)	Funeral Expenses	Rs.15,000/-
	Total	Rs.18,61,936/-

The appeal is disposed of accordingly. The Award of the Tribunal is modified to the extent that the claimants-respondents are held entitled to total compensation of Rs.18,61,936/-, that is, Rs.1,83,064/- (2045000-1861936) 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 expenses. A copy of this order be conveyed to the claimants-respondents No.1 to 3. 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.

April 30, 2018

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(**HARINDER SINGH SIDHU**)

JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No