

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

**FAO No.702 of 2018 (O&M)
Date of Decision: February 02, 2018.**

United India Insurance Company Limited

.....APPELLANT(s).

VERSUS

Nachhattar Kaur and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.R. Bansal, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

This is appeal by United India Insurance Company Limited against the award dated 09.11.2017 passed by Motor Accident Claims Tribunal, Moga, whereby compensation of ₹10,43,000/- was awarded for the death of Daljit Singh in a motor vehicle accident with offending vehicle (combine) bearing Registration No. PB-13AL-6069.

Learned counsel for the appellant has assailed the award on two grounds; firstly that the vehicle i.e. Combine bearing registration No.PB-13-6069 was falsely implicated in this case and secondly, on the point of quantum of compensation awarded by the tribunal.

In support of his first contention, he has drawn my attention towards statement of Tarlochan Singh CW3, an eyewitness of the occurrence, who in cross-examination has stated that he has also appeared

as witness before the trial Court in criminal case relating to this accident, bearing FIR No.99 dated 24.04.2015 registered at Police Station Tripri Town, Patiala for the offences punishable under Sections 279, 304-A and 427 of Indian Penal Code. On the statement (Ex.R1), which he had made before the trial Court in criminal case he has admitted his signatures. Learned counsel for the appellant has argued that in his statement before the trial Court, Tarlochan Singh has denied that he had seen the accident. The tribunal has not taken note of this fact while concluding that accident had taken place due to rash and negligent driving of offending vehicle by respondent No. 2.

On perusal of statement of Tarlochan Singh, I find that he was not confronted with his statement recorded before the trial Court in criminal case, as such, there was no reason for the tribunal to take note of that statement. The appellant could take advantage of the statement of Tarlochan Singh recorded before the criminal Court only if the witness had been confronted with the same as per provisions of Section 145 of Evidence Act. The tribunal has decided the claim petition on the basis of evidence before it and I find no reason to interfere with the findings of the tribunal on this point.

While assailing the award on the quantum of compensation, learned counsel for the appellant has argued that the tribunal has awarded compensation under conventional heads as follows:-

<i>Sl.No</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Loss of consortium	₹100000/-
(ii)	Loss of love and affection	₹100000/-
(iii)	Loss of estate	₹50000/-
(iv)	Funeral expenses	₹25000/-

The above amount of compensation as awarded by the tribunal is much higher than the quantum of compensation on conventional heads as allowed by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009.***

As per observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra), claimants in case of death in motor vehicle accident are entitled to compensation of ₹40,000/- for loss of consortium, ₹15,000/- each for loss of estate and funeral expenses. The tribunal has certainly awarded higher compensation under the above heads and compensation for loss of love and affection as awarded by tribunal is not admissible.

However, when the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra), are made applicable to this case, I find that total amount of compensation awarded by the tribunal is not on higher side. The tribunal took income of the deceased as ₹6,000/- per month. He was 35 years of age and the claimants were entitled to 40% addition in the income of the deceased towards future prospects, which has not been awarded by the tribunal. If this amount is added to the amount of compensation, it makes addition of ₹4,60,800/-, in total amount of compensation. Even if amount of ₹50,000/- awarded under the head of loss of love and affection and compensation for loss of consortium, loss of estate and funeral expenses be awarded as per observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra), the total amount of compensation to which claimants are entitled works out to be

more than amount of compensation awarded by tribunal, as such, no reason is made out to reduce the compensation allowed to claimants.

This appeal has no merits and the same is dismissed.

February 02, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>