

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-.-

FAO 802 of 2018 (O&M)
Date of decision: 07.02.2018

National Insurance Co Limited *Petitioner*

Versus

Kulwinder Kaur and others*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Harjinder Singh, Advocate
 for the appellant
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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 26.05.2017 passed by the Motor Accidents Claims Tribunal, Bathinda (in short, 'the Tribunal') whereby compensation has been awarded in regard to death of Narinder Singh in a motor vehicular accident that took place on 06.10.2013.

The Tribunal has awarded compensation of Rs.15,78,000.00 (rounded off to Rs.15,80,000.00), detailed hereunder:-

Monthly income of the deceased	Rs.9,000.00
Multiplier	13
Deduction for personal expenses	1/4 th
Loss of dependency	Rs.10,53,000.00
Funeral expenses	Rs.25,000.00
Loss of estate	Rs.1,00,000.00
Loss of love and affection for claimants No. 2 to 4 and 7	Rs.1,00,000.00 each

Counsel for the appellant has challenged quantum of

compensation assessed by the Tribunal on few counts. It is argued that income assessed is on higher side and liable to be reduced. Compensation awarded under conventional heads needs modification in the light of latest judgement of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.***

The Tribunal in para 14 of the award has noticed that as per plea of claimants, Narinder Singh was driver and earning Rs.10,000.00 per month. By treating him to be a skilled labour, his income has been assessed at Rs.9,000.00 per month. The deceased was 47 years old and application for compensation was filed by ten persons. Kulwinder Kaur and Rajpreet Kaur claimants No. 1 and 6 have alleged themselves to be widows of deceased Narinder Singh. It appears that there is some dispute between them as to who is entitled to get compensation. There is no challenge to findings of the Tribunal that the deceased was a driver, thus, a skilled worker. Accordingly, income of the deceased assessed by the Tribunal is ordered to be affirmed.

The deceased was 47 years old. The Tribunal has not allowed benefit of increase in income for future prospects in the light of latest judgment of Hon'ble the Supreme Court in ***Pranay Sethi's*** case (supra). Benefit of future prospects to the extent of 25% is admissible. The multiplier and deduction allowed by the Tribunal are affirmed. In this view of the matter, loss of dependency comes to Rs.13,16,250.00 (Rs.14,04,000.00 *i.e.* Rs.9,000 x 12 x 13 + Rs.3,51,000.00 (25% future prospects) – Rs.4,38,750.00 (1/4th deduction).

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court in

Pranay Sethi's case (supra), detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.13,86,250.00 (Rs.13,16,250.00 + Rs.70,000.00) and compensation awarded by the Tribunal is reduced to the extent of Rs.1,93,750.00 (Rs.15,80,000.00 – Rs.13,86,250.00).

The Tribunal has awarded interest at the rate of 9% per annum from the date of petition till realization but failure of the insurance company to pay the amount within three months would attract interest at the rate of 12% per annum. The penal interest allowed by the Tribunal cannot be allowed to sustain in the light of judgment of Hon'ble the Supreme Court ***National Insurance Co Limited vs. Keshav Bahadur, 2004 ACJ 648.*** Under the circumstances, claimants shall be entitled to interest at the rate of 9% per annum from the date of petition till realization.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

Before parting with the order, it is pertinent to mention that compensation has been reduced to the extent of Rs.1,93,750.00 without notice to the claimants. However, claimants would be at liberty to file an application before this Court if they have any grievance to express. It is clarified that any observations made herein before shall not cause prejudice to the claimants if they prefer an appeal for enhancement.

As the appeal has been decided on merits, application for
condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

07.02.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No