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

FAO No.888 of 2018 (O&M)
Date of Decision:14.02.2018

IFFCO Tokio General Insurance Company

...Appellant

Versus

Samro Bai and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Sanjeev Kodan, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-2895-CII-2018

The application is allowed. Delay of 83 days in filing the appeal is condoned.

CM stands disposed of.

Main appeal

The Insurance Company is in appeal against the award dated 1.8.2017 passed by the learned Motor Accident Claims Tribunal, Fazilka (`the Tribunal' for short), awarding a sum of Rs.10.97 lacs on account of death of a young man, who died at the age of 18 years in a motor vehicular accident.

The parents had filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation to the tune of Rs.10 lacs.

Learned counsel for the appellant has submitted that the learned Tribunal has erred in assessing the income of the deceased as Rs.9,000/- per month, although, there was no evidence available on the file. The Tribunal has noticed that the deceased was young and energetic boy. The learned

Tribunal has also noticed that if the deceased is equated with a casual labourer, even then the casual labourer does not earn less than Rs.300 per day by doing odd jobs. Thus, on the basis thereof, the learned Tribunal has assessed the income of the deceased to be Rs.9,000/- per month.

The accident took place in the year 2015. The appellants were residents of District Fazilka, Punjab. The income of the deceased assessed by the Tribunal at Rs.300/- per day is not on higher side. Even unskilled labourer is not available at this ways in Northern India.

Learned counsel for the appellant has further argued that the multiplier applied by the learned Tribunal, i.e. 18, is on the higher side. A look at the age of the deceased, who has left behind his parents, this Court does not find any substance in the argument raised that the multiplier applied by the learned Tribunal is on the higher side.

Next argument of the learned counsel for the appellant is that the offending truck/insured vehicle was not having valid permit. In the present case, owner of the driver had produced copy of permit Ex.R2 and copy of fitness Ex.R3. The Insurance Company only proved copy of the insurance policy. No evidence was produced to prove that the permit was not valid. Still further counsel for the Insurance Company did not even raise such objection before the learned Tribunal. Such being the position, this Court does not find any substance in the argument.

Last argument of the learned counsel for the Insurance Company is that under the Conventional Heads, the learned Tribunal has granted a sum of Rs.1.25 lacs, whereas as per the judgment of Constitution Bench of the Hon'ble Supreme Court in **SLP (C) No.25590 of 2014 (National Insurance Company Limited Vs Pranay Sethi and others)** decided on 31.10.2017 the payment under the Conventional Heads could be at the most Rs.70,000/-. There is some substance in this argument. However, in the present case, the learned Tribunal has not granted any amount on account of future prospects and therefore, the excess amount paid under the Conventional Heads can very well be adjusted towards future prospects.

In view thereof, there is no scope for interference in the impugned award passed by the learned Tribunal. The present appeal is dismissed.

14.02.2018 **(ANIL KSHETARPAL)**
mks **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No