IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Cross Objection No.202-CII of 2015 in/and
F.A.O. No. 10221 of 2014 (O&M)

Date of Decision: 23.05.2018

National Insurance Company Limited

.......Appellant

Versus

Jarnail Singh and others ......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the appellant.

Mr. Gopal Sharma, Advocate
for respondents No. 1 and 2.

Ms.Kanchan, Advocate for
Mr. Amit Dhawan, Advocate
for respondent No.4.

AVNEESH JHINGAN, J.(oral)

The insurer of the offending Tipper bearing registration No. PB-32-K-7647 and claimants before Motor Accidents Claims Tribunal, Fatehgarh Sahib (for short 'the Tribunal') in MACT case No. 3 of 2012, are in appeal and cross-objections being aggrieved of quantum of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), vide award dated 21.5.2014, on account of death of Maninder Singh.

On 30.9.2011 a motor vehicular accident took place. The said accident proved fatal for Maninder Singh . He was going on his motor cycle and on his way, the offending vehicle struck against the motor cycle. As a result of the accident, he suffered grievous injuries and was taken to Civil Hospital, Fatehgarh Sahib, from where he was referred to PGIMER, Chandigarh. On his way to PGIMER he succumbed to injuries.

A claim petition under Section 166 of the Act was filed by the parents of the deceased. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. It was proved that the deceased was working as Lecturer with Rayat Polytechnic College, Nawanshahar. His age was proved as 23 years. The Tribunal awarded a sum of Rs.29,70,320/- along with interest at the rate of 9% per annum.

The grievance raised by the learned counsel for insurer virtually no longer survives because of decision of Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and others*** 2017 AIR (SC) 5157. The only grievance of the appellant and the cross-objector is regarding salary of the deceased. The Tribunal took the salary of the deceased as Rs.20,800/- per month.

The contention of learned counsel for the insurer is that CW3 Manjeet Singh, Superintendent of Rayat polytechnic, in his cross-examination stated that the deceased was getting salary of Rs.15,000/- per month.

On the other hand learned counsel for the cross-objector relies upon Ex.C5 i.e. wages/salary register. According to the said register, the salary of the deceased was Rs.24,400/-. The said register was proved by deposition of CW3. The register contains the details such as basic salary, gross earning, DA, HRA etc. Even there deduction regarding PF, ESI and TDS are also mentioned. From the perusal of the register, it is evident that no TDS was being deducted. Merely because in the cross-examination CW3 has stated that the salary of the deceased was Rs.15,000/-, the documents placed on record cannot be ignored.

In the facts of the case, the compensation would be calculated taking the monthly earning of the deceased by rounding off as Rs.24,400/-. He was below 40 years of age and it has come on record that he was not a permanent employee and was on probation, in consonance with the decision of Supreme Court in **Pranay Sethi's case (supra),** 40% future prospects are added. The claimants would be entitled to Rs.15,000/- each for funeral expenses and for loss of estate. The deceased was Bachelor and ½ deduction is to be made for self expenses and keeping in view the age of the deceased multiplier of 18 is to be applied.

For the reasons mentioned above, the compensation is calculated as under:

Monthly earning	Rs.24,400/-
40% future prospects	Rs. 9760/- Rs. 34,160/-
½ deduction for self expenses	Rs.17,080/-
Multiplier of 18 17080x12x18	Rs.36,89,280/-
conventional heads	Rs.30,000/-
Total:	Rs.37,19,280/-

The award dated 21.05.2014 is modified to the extent that the amount awarded of Rs.29,70,320/- is enhanced to Rs.37,19,280/-.

The claimants would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The cross-objections are allowed and the appeal is dismissed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

23.05.2018
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No