

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4461 of 2019 (O&M)
Date of Decision: 13.11.2019

National Insurance Company

---Appellant

versus

Paramjit Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajbir Wasu, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 11.3.2019 passed by the Motor Accidents Claims Tribunal, Tarn Taran (in short “the Tribunal”) whereby compensation has been awarded on account of death of Charanjit Singh in a motor vehicular accident that took place on 22.11.2017.

The District Judge, Tarn Taran, in compliance with order dated 3.10.2019 has forwarded communication received from Medical Officer, Civil Hospital, Tarn Taran along with attested copy of report of Chemical Examiner.

Counsel for the insurance company would inform that appeal has been filed to assail findings of the Tribunal that Charanjit Singh died due to sustaining of injuries in the occurrence and quantum of compensation. It is argued that as per post mortem examination of Charanjit Singh (Annexure A-1) cause of death was kept pending awaiting reports of Chemical Examination with regard to viscera and alcohol

estimation. It is argued that the Tribunal without examining chemical analysis of viscera and blood sample for alcohol estimation, wrongly concluded that Charanjit Singh died due to receipt of injuries in the accident.

With regard to quantum of compensation, it is argued that as the deceased was proved to be working with Punjab School Education Board on daily basis/contract basis, admissible addition for future prospects should be 40% in place of 50% allowed by the Tribunal.

Indisputably, the cause of death was not finally determined and kept pending for receipt of reports of Chemical Examination. A copy of report with regard to chemical analysis of viscera samples contained in Ex. I to V has been received. As per observations, no poison was detected in the contents thereof.

One of the eye witnesses to the occurrence was examined to prove that accident is the result of rash and negligent driving of offending vehicle. Manpreet Singh CW2 had not only deposed about manner of the accident but also stated that deceased succumbed to the injuries while he was in the process of being shifted for medical aid. He had categorically stated that while entering the gate of hospital, the injured succumbed to the injuries. Counsel has failed to point out any material elicited in cross examination of Manpreet Singh to create doubt with regard to his presence at the spot or discard or disbelieve his testimony. Taking into consideration testimony of Manpreet Singh coupled with injuries noticed in the post mortem report and the fact that analysis of viscera ruled out possibility of poison along with that proceedings before the Tribunal are summary in nature and do not admit strict principles of law of evidence to be applied, I

do not find any reason to differ with findings of the Tribunal on issue No. 1 upholding plea of the claimants that accident is the result of rash and negligent driving of offending vehicle and Charanjit Singh died due to receipt of injuries in the unfortunate occurrence.

The Tribunal awarded Rs. 11,64,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 7000/-
Deduction for personal expenses	50%
Addition in income for future prospects	50%
Multiplier	18
Loss of dependency	Rs. 11,34,000/-
Loss to estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-

The claimants examined Jaswant Singh, District Manager, Branch Office Punjab School Education Board, Tarn Taran to prove that deceased was working in Punjab School Education Board, Tarn Taran on daily basis. The witness produced attested copies of salary statement Ex. C3, attendance Register Ex. C4 and salary bill Ex. C5. It has been noticed by the Tribunal that Salary Certificate Ex. C3 indicates that deceased was getting salary of Rs. 5000-7000/- per month on daily basis. Taking into consideration status of the deceased as an employee of Punjab School Education Board, admissible increase for future prospects would be 40% in place of 50%. The other criteria adopted by the Tribunal for assessing loss of dependency cannot be faulted with. Compensation allowed under conventional heads is in complete consonance with judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others** 2017 SCC 1270. In view of the above, total compensation is Rs. 10,88,400/- [(7000 x 12x18) + (40% thereof) – 50% + 30,000)] and compensation allowed by the Tribunal is reduced to the extent

of Rs.75,600/- (11,64,000- 10,88,400). The insurance company shall be entitle to recover the excess amount, if paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

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

(Rekha Mittal)
Judge

13.11.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No