

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO 1644 of 2014 (O&M)
Date of decision: 11.01.2019

New India Assurance Company Limited*Appellant*
versus
Sharda Devi and others*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. R K Bashamboo, Advocate
for the appellant

Ms Amandeep Kaur, Advocate
for respondents No. 1 to 7

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Rekha Mittal, J.(Oral)

The present appeal directs challenge against award dated 02.12.2013 passed by the Motor Accident Claims Tribunal, Chandigarh whereby compensation has been allowed on account of death of Bankey Prasad in a motor vehicular accident that took place on 17.05.2011.

The Tribunal has awarded compensation of Rs.32,62,090.00, detailed hereunder:-

Annual income of the deceased	Rs.2,22,498.00
Addition in income for future prospects	30 percent
Deduction for personal expenses	1/4 th
Multiplier	14
Loss of dependency	Rs.30,37,090.00
Funeral expenses	Rs.25,000.00
Loss of consortium to widow	Rs.1,00,000.00
Loss of care and guidance to claimants 3 to 6	Rs.1,00,000.00

At the outset, it is pertinent to mention that appeal against respondents No. 8 to 10 stands dismissed vide order dated 20.03.2018

passed by this Court. In the circumstances, only issue that survives for consideration is with regard to quantum of compensation assessed by the Tribunal.

Counsel for the appellant-insurance company would argue that the Tribunal has allowed addition in income for future prospects @ 30% as against 25% that can be allowed in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270.*** Compensation allowed under conventional heads needs to be restricted to Rs.70,000.00 in the light of judgments of Hon'ble the Supreme Court in ***Pranay Sethi's*** case (supra) and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

Counsel for the claimants, on the contrary, would argue that Bankey Prasad was employed with M/s Punjab Chemicals and Crops Protection Limited, Mohali since October 1991. The claimants examined Dharam Chand, Assistant Officer, Times Office of Punjab Chemical and Crop Protection Limited, Mohali (PW2) who produced documents Ex. P7 to P12 with regard to appointment of Bankey Prasad, salary certificate, salary sheet, attendance sheet etc. The deceased was getting increment every year. After his death, family has been paid death benefits and son of the deceased has been given job on compassionate ground. It is vehemently argued that as the deceased had a permanent job, the Tribunal has rightly allowed benefit of addition in income for future prospects @ 30%.

I have heard counsel for the parties, perused the paper book

and records.

Perusal of statement of Dharam Chand (PW2) substantiates plea of the claimants that deceased Bankey Prasad was a permanent employee of Punjab Chemicals and Corps Protection Limited, Mohali since 1991. That being so, no fault can be found in findings of the Tribunal allowing benefit of increase in income for future prospects at the rate of 30%. The plea of the insurance company with regard to compensation under conventional heads is meritorious when examined in the light of judgments relied upon by counsel for the insurance company. In view of judgment passed by the Constitution Bench in *Pranay Sethi's* case (supra) and Three Judge Bench in *Sebastiani Lakra's* case (supra) after decision of two Judge Bench in '***Magma General Insurance Co. Ltd. versus Nanu Ram Alias Chuhru Ram & Ors.***2018(4) R.C.R.(Civil) 333, it is difficult to accept contention of claimants that all the claimants are entitle to loss of consortium. In view of the above, compensation allowed by the Tribunal under conventional heads is reduced to Rs.70,000.00 and as a consequence, compensation is reduced to the extent of Rs.1,55,000.00. The insurance company would be at liberty to recover the excess amount, if already paid to the claimants, by filing an appropriate application before the Tribunal.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms. Application pending, if any, stands disposed of.

(Rekha Mittal)
Judge

11.01.2019
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