IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224 FAO-2695-2016 (O&M)

Date of decision: 13.02.2019

NATIONAL INSURANCE COMPANY LTD ... Appellant

Versus

SHAKILA AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sudhanshu Makkar, Advocate for the appellant.
None for the respondents.
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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 19.01.2016 passed by the Motor Accidents Claims Tribunal, Jhajjar whereby compensation has been assessed on account of death of Karamjeet in a motor vehicular accident that took place on 15.05.2014.

Counsel for the insurance company would inform that the appeal has been preferred to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded Rs.10,22,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Addition in income for future prospects	50%
3. Multiplier	18
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.9,72,000/-
6. Expenses on funeral and transportation	Rs.25,000/-
7. Loss of love and affection	Rs.25,000/-

Counsel for the appellant would argue that addition in income for future prospects is liable to be restricted to 40%, in the light of judgment of Constitution Bench of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Compensation allowed under conventional heads is liable to be reduced.

There is no representation on behalf of the claimants, despite service.

The Tribunal has assessed income of the deceased @ Rs.6000/- per month. The claimants placed on record copy of Secondary School Examination certificate of deceased Karamjeet Ex.P9 and copy of Senior School certificate marks-sheet Ex.P10. The plea of claimants is that deceased was earning Rs.20,000/- per month by doing agriculture work and running a dairy. The Tribunal has noticed that there is no documentary evidence on record qua income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.6200/- per month. Addition in income for future prospects would be 40% in the light of judgment in **Pranay Sethi and others's case (supra)**. The deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,37,440/- [(6200 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra)** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, detailed hereunder:-

1. Expenses on last rites Rs.15,000/-
2. Loss of estate Rs.15,000/-

Total compensation is Rs.9,67,440/- and compensation allowed by the Tribunal is reduced to the extent of Rs.54,560/- (10,22,000 - 9,67,440). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

13.02.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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