

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:30.1.2019

FAO-2970 of 2016(O&M)

New India Insurance Company Limited

---Appellant

vs.

Ajit Singh and others

---Respondents

FAO-2976 of 2016(O&M)

New India Insurance Company Limited

---Appellant

vs.

Smt. Krishna Devi and others

---Respondents

FAO-2977 of 2016(O&M)

New India Insurance Company Limited

---Appellant

vs.

Smt. Neelam Rani and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.C.Gupta, Advocate
for the New India Insurance Company

Mr. M.S.Saini, Advocate
for respondent No. 2 in FAO No. 2970 of 2016
for respondents in FAO No. 2976 of 2016

Rekha Mittal, J.

This order will dispose of FAO Nos. 2970, 2976 and 2977 of

2016 as these have emerged out of the same accident dated 4.10.2014 in which Sandeep Kaur, Parvinder Singh and Neelam Rani sustained injuries that proved fatal for Sandeep Kaur and Parvinder Singh but fortunately Neelam Rani was saved.

CM No. 10956-CII of 2016 in FAO No. 2970 of 2016

Allowed as prayed for.

Delay of 8 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No. 2970 of 2016

The sole submission made by counsel for the appellant is that as four persons were travelling on motor cycle bearing No. PB-07-AQ-0984 driven by Sukhwinder Singh son of Ajit Singh, the deceased and injured are liable to be attributed contributory negligence and compensation is liable to be reduced to the extent of negligence attributable to Sandeep Kaur daughter of Ajit Singh.

With regard to death of Sandeep Kaur, the claim was preferred by Ajit Singh and Soma Devi, her parents.

Appeal against respondent No. 1 Ajit Singh was ordered to be dismissed vide order dated December 18, 2017. In the given circumstances, the insurance company can not be allowed to agitate that compensation assessed by the Motor Accidents Claims Tribunal, Hoshiarpur (in short “the Tribunal”) is liable to be decreased by attributing contributory negligence to the deceased. As such, appeal filed by the insurance company is liable to be dismissed.

No other point has been raised.

In view of what has been discussed hereinbefore, the appeal fails and is accordingly dismissed without any order as to costs.

FAO No. 2976 of 2016

The sole submission made by counsel for the appellant that compensation assessed by the Tribunal is on higher side and needs reduction. The Tribunal has awarded compensation of Rs. 8,35,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 5000/-
Addition in income for future prospects	50%
Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs. 8,10,000/-
Funeral expenses	Rs. 25,000/-

The deceased was less than 18 years of age as he was born on 27.9.1988, as per date of birth recorded in the matriculation certificate. The claimants are entitle to addition in income for future prospects @ 40% in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.** However, claimant shall be entitle to a sum of Rs. 30,000/- under conventional heads i.e. Rs. 15,000/- for loss of estate and and another sum of Rs. 15,000/- for funeral expenses.

The Tribunal has assessed income of the deceased at Rs. 5000/- per month but the minimum wage of an unskilled worker at the relevant time was Rs. 6,660.10/-.

In the given circumstances, if income of the deceased is assessed by taking a clue from notification issued by the State of Punjab

fixing minimum wage at the relevant time coupled with that the deceased was approximately 16 years of age but addition for future prospects is restricted to 40%, the net result may be enhancement of compensation over and above what has been assessed by the Tribunal. In the given circumstances, I do not find merit in contention of the insurance company that compensation assessed by the Tribunal is liable to be reduced.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed.

FAO No. 2977 of 2016

Counsel for the insurance company would argue that the Tribunal has awarded a sum of Rs. 1,07,881/- in respect of injuries sustained by Neelam Rani and the same is on higher side.

Contention raised by the insurance company is not meritorious as out of Rs. 1,07,881/-, an amount of Rs. 97,881/- has been awarded for hospitalization charges, treatment expenses and expenses incurred on room rent.

In view of the above, finding no merit, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

30.1.2018
paramjit

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