

**220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-9132-2014 (O&M)

Date of Decision: 3.12.2019

National Insurance Company Ltd.

.....Appellant

Versus

Sonia and others

.....Respondents

FAO-8179-2015 (O&M)

Sonia and others

.....Appellants

Versus

Rajiv Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Neeraj Chopra, Advocate, for the appellant
in FAO-9132-2014.

None for the respondent-claimants in
FAO-8179-2015.

NIRMALJIT KAUR, J. (ORAL)

CM-25776-CII-2015 in FAO-8179-2015

For the reasons mentioned in the application, the delay of 147
days in refiling of the appeal is condoned.

CM stands allowed.

CM-25775-CII-2015 in FAO-8179-2015

For the reasons mentioned in the application, the delay of 83
days in filing of the appeal is condoned.

CM stands allowed.

Main appeals

Both the appeals shall stand decided by this common order and judgment as the same arise out of a common award.

While praying for modification of the award dated 22.8.2014 passed by learned Motor Accident Claims Tribunal, Kurukshetra, learned counsel for the appellant-Insurance Company on the question of quantum of compensation submitted that the deceased was self employed 27 years of old, therefore, future prospects should have been @ 40% instead of 50% and the conventional heads should have been ₹70,000/- instead of ₹1,25,000/-.

There is merit in the said argument in view of the settled proposition of law laid down by Hon'ble the Apex Court in the case of National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680. However, in case the amount is reduced to the extent as mentioned above, the same would amount to only about ₹1,65,000/-. Admittedly, the entire amount has already been paid to the claimants and same has been disbursed to them since long as no stay was operating. Accordingly, this Court does not deem it proper to permit the recovery of the said amount, which must have been long spent, from an already bereaved family, would be highly unjust.

Dismissed accordingly.

FAO-8179-2015 has been filed for enhancement of compensation on the ground that income of the deceased assessed is on the lower side. It should have been @ ₹ 20,000/- per month instead of ₹ 6,655/- per month as assessed by the Tribunal as the deceased was an agriculturist

and running a dairy business. However, it is evident from the award that no

evidence was produced to prove that the deceased was carrying on a diary business. Therefore, the income assessed by the Tribunal cannot be faulted with.

In view of the above, the present appeal too is dismissed being devoid of merit.

(NIRMALJIT KAUR)
JUDGE

3.12.2019
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No