

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

FAO No. 1462 of 2017(O&M)

Date of decision: 14.5.2019

New India Assurance Company Ltd.Appellant

VERSUS

Sudesh Devi and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vinod Gupta, Advocate for the appellant.

Mr. S.K. Gupta, Advocate for respondents No.2 and 3.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 29.11.2016 passed by the Motor Accidents Claims Tribunal, Karnal (in short 'the Tribunal') whereby compensation has been assessed on account of death of Shyam Lal in a motor vehicular accident that took place on 27.4.2015.

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

The Tribunal awarded Rs.20,84,000/- detailed hereunder:-

Monthly income of the deceased	Rs.8100/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/4 th
Multiplier	17
Loss of dependency	Rs.18,58,950/-

Loss of consortium to widow, loss of love and affection and loss of estate	Rs.2,25,000/-
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Counsel for the appellant would argue that the Tribunal has allowed addition in income for future prospects to the tune of 50% as against 40% in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.** Another submission made by counsel is that compensation allowed under conventional heads needs to be restricted to Rs.70,000/-.

Counsel for the contesting respondents is not in a position to justify addition for future prospects at the rate of 50% and conventional heads more than Rs.70,000/-. Accordingly, loss of dependency comes to Rs.17,35,020/- [Rs.16,52,400/- (Rs.8100 x 12 x 17) + Rs.6,60,960/- (40% addition towards future prospects) – Rs.5,78,340/- (1/4th deduction towards personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others case** (supra) and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034,** detailed hereunder:-

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.18,05,020/- and compensation awarded by the Tribunal is reduced to the extent of Rs.2,78,980/- (Rs.20,84,000/- - Rs.18,05,020/-). The

insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

MAY 14, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no