

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.885 of 2015 (O&M)
Date of Decision: March 14, 2019.

National Insurance Company Limited

.....APPELLANT(s).

VERSUS

Amar Kaur and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the appellant (s).

Mr. Ithlesh, Advocate for
Mr. L.S. Sidhu, Advocate
for respondent No.1 to 3.

SURINDER GUPTA, J.

This is appeal by National Insurance Company Limited against the award dated 17.09.2014 passed by Motor Accident Claims Tribunal, Patiala (later referred to as the tribunal), vide which a compensation of ₹14,83,000/- was allowed for the death of Butta Singh (later referred to as the deceased), son of claimants-respondents No.1 & 2 and brother of claimant-respondent No.3, in a motor vehicle accident, which took place on 29.03.2013 with Truck/Tralla No.PB-11AL-9973.

As the only issue pressed in this appeal relates to quantum of compensation as awarded by tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded by the tribunal was computed as follows:-

(i)	Name of the deceased	Butta Singh
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(ii)	Date of accident	29.03.2013
(iii)	Age of the deceased	22 years
(iv)	Income of the deceased	₹9000 p.m.
(v)	50% of the (iv) above to be added as future prospects	₹9000+4500=₹13500 p.m.
(vi)	Deduction of 1/2 towards personal expenses	₹13500-6750=₹6750 p.m.
(vii)	Compensation after multiplier of 18 is applied	₹6750X12X18= ₹1458000
(vii)	Funeral expenses	₹25000
<i>Total</i>		₹14,83,000/-

Learned counsel for the appellant-insurance company has argued that the deceased was 22 years of age and his income was taken as a casual labourer. In the year 2013, minimum wages for a casual labourer/unskilled worker was fixed by the State of Punjab as ₹5,695/-. He has further argued that as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***, the claimants are entitled to 40% addition in the income of the deceased towards loss of future prospects, while the tribunal has made addition of 50% on this score.

Learned counsel for respondents No.1 to 3-claimants has argued that though the deceased was doing labour work at a brick kiln but he was a matriculate. He was also carrying on his side business of selling milk as he was having a mentally retarded sister to look after. Though the claimants could not produce any proof regarding income of the deceased but keeping in view that he was an educated person, his wages can be fixed at least as a semi skilled worker. He has, however, not disputed the submission of learned counsel for the appellant that claimants are entitled to 40% addition in the income of the deceased towards loss of future prospects.

The tribunal, while assessing income of the deceased, has

observed that he was a matriculate. Though he was doing labour work at brick kiln but he had fair chances to rise in life. Keeping in view the above fact, I accept the submission of learned counsel for respondents No.1 to 3- (claimants) to assess the income of the deceased as a semi skilled worker. The income of a semi-skilled worker on 01.03.2013 was ₹6,475/- per month, as such, the same is assessed as ₹6,500/- per month. The claimants are also entitled to compensation of ₹30,000/- under the conventional heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹6500 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹6500+₹2600)= ₹9100 per month
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹9100-₹4550)= ₹4550 per month
(iv)	Compensation after multiplier of 18 is applied	(₹4550X12X18)= ₹982800
(v)	Loss of estate	₹15000
(vi)	Funeral expenses	₹15000
<i>Total</i>		₹10,12,800/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the claimants-respondents No.1 to 3 is reduced from ₹14,83,000/- to ₹10,12,800/-. The appellant-insurance company is entitled to recover the excess amount of compensation, if paid, from respondents No.1 to 3-claimants. Keeping in view the facts and circumstances of the case, parties are left to bear their own costs.

March 14, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No