

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

**209**

**FAO-964-2015**

Date of Decision : August 29, 2019

1. ORIENTAL INSURANCE CO.

.....Appellant

***VERSUS***

HUKAM CHAND AND ORS

.....Respondents

**FAO-3202-2015**

2. HUKAM CHAND AND ORS

.....Appellants

***VERSUS***

RAKESH KUMAR AND ORS

.....Respondents

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**

Present : Mr. Vinod Chaudhari, Advocate  
for the appellant in FAO-964-2015  
and for the respondent No.3-Insurance Company in  
FAO-3202-2015.

Mr. Yowan Sharma, Advocate  
for the appellants in FAO-3202-2015 and  
for the respondents in FAO-964-2015.

**NIRMALJIT KAUR, J. (Oral)**

Both the above mentioned appeals shall stand decided by this  
common order.

The appeal filed by the Insurance Company seeking  
reduction in the amount of the compensation granted to the claimants  
vide award dated 10.10.2014.

While praying for allowing the appeal filed by the Insurance  
Company, learned counsel submitted that the amount towards the

consortium could have been only Rs.70,000/- whereas it has been assessed as Rs.1,25,000/-. Similarly, deduction of 1/2<sup>nd</sup> should have been applied instead of 1/3<sup>rd</sup>.

The other appeal is filed by the claimants praying for enhancement on the ground that the deceased was a housewife aged 56 years. As per the settled proposition of law, the income of the housewife should have been atleast assessed as Rs.9,000/- per month if not more. Reliance is placed upon the judgment dated 15.1.2014 passed in FAO-218-2014 titled as **United India Insurance Co. Ltd. Vs. Sube Singh and Others**, which has been affirmed by the Hon'ble Apex Court in SLP (C) No.024916/2014. In the present case, the income of the deceased is assessed as Rs.5,000/- per month.

Learned counsel for the respondent-Insurance Company is not able to dispute the said argument in view of the settled proposition of law as referred by the learned counsel for the appellants-claimants. Thus, the income is assessed as Rs.9,000/-. It is also not disputed that no deduction could have been made in the case of housewife. The only dispute that remains is qua the amount that was granted towards the consortium. In view of the judgment rendered by the Hon'ble Apex Court in the case of **National Insurance Company Limited vs. Pranay Sethi and others**, 2017 AIR(SC) 5157, Rs.70,000/- is the maximum amount which can be awarded under this head whereas as per the judgment rendered in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram & Ors.**, 2018(4) R.C.R.(Civil) 333, Rs.40,000/-

has been awarded to each of the claimants. The claimants here are three in number. Since, as per the judgment in case of Magma (supra), Rs.1,20,000/- were required to be awarded and the Tribunal has awarded Rs.1,25,000/-. This Court does not deem it proper to reduce the amount awarded under the said head.

In view of the above, the appeal i.e. FAO-964-2015 filed by the Insurance Company is dismissed.

However, the appeal i.e. FAO-3202-2015 filed by the appellants-claimants is allowed and they are entitled to the enhanced amount as per the calculation provided:-

| Sr. No. | Head                                 | Amount assessed                     |
|---------|--------------------------------------|-------------------------------------|
| 1       | Income                               | Rs.9000/- p.m. x 12 = Rs.1,08,000/- |
| 2       | Multiplier                           | 1,08,000 x 9 = Rs.9,72,000/-        |
| 3       | Conventional Heads                   | Rs.1,25,000/-                       |
| 4       | Total                                | Rs.10,97,000/-                      |
| 5       | Compensation awarded by the Tribunal | Rs.4,85,000/-                       |
| 6       | Differences                          | Rs.6,12,000/-                       |

The enhanced amount of Rs.6,12,000/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

August 29, 2019  
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( NIRMALJIT KAUR )  
JUDGE

Whether speaking/reasoned. : Yes/No  
Whether Reportable. : Yes/No