

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

FAO-2396-2017(O&M)

Date of Decision: November 07, 2019

The New India Assurance Company Limited
through its Regional Manager

.....Appellant

versus

Shabana and others

.....Respondents

CORAM: HON'BLE MS.JUSTICE JAISHREE THAKUR

Present: Ms. Manju Sillay, Advocate with
Mr. R.C. Gupta, Advocate
for the appellant.

None for respondents No.1, 2 and 5.

Mr. H.S. Jugait, Advocate
for respondents No.3 and 4.

JAISHREE THAKUR, J. (Oral)

This is an appeal that has been filed challenging the award of the Motor Accident Claims Tribunal, Chandigarh whereby compensation of Rs.17,82,000/- has been allowed to the dependents on account of death of Sikandar Khan.

2. Brief facts of the case are that an accident took place on 08.03.2016 when Sikandar Khan, who was going from Nayagaon to village Kansal on his motorcycle, was struck by Bolero car, which came from Kansal side at about 6:45 pm. Due to the impact, Sikandar Khan fell on the road and received serious injuries and was shifted to the PGIMER, Sector 12, Chandigarh by an Auto-rickshaw driver. The eye witness Ajay Kumar noted the number of the offending

Bolero car as HP-58-7315, who informed the police and an FIR was registered on his statement.

3. On account of death of Sikandar Khan, who was working as Raj Mistri (Mason), aged 30 years at the time of his death, a claim petition was filed, which was allowed by the Tribunal. The Tribunal, while taking into account his age and statement made by his family members that he was working as Raj Mistri (Mason), held his income to be Rs.8,000/- per month. An addition of 50% was allowed towards future prospects apart from applying deduction of 1/3rd towards his personal expenses. The income was computed to be Rs.96,000/- per annum on which a multiplier of 17 was applied. Apart from that, the Tribunal allowed compensation for loss of consortium of Rs.1,00,000/- apart from awarding Rs.50,000/- towards loss of love and affection for the children and Rs.25,000/- towards funeral expenses. In totality, an amount of Rs.17,82,000/- was allowed.

4. Aggrieved against the said award, the Insurance Company has filed an appeal on the question of quantum. It is argued that the Tribunal has erred in allowing 50% increase towards future prospects and an amount of Rs.1,00,000/- towards loss of consortium, Rs.50,000/- on account of loss of love and affection and Rs.25,000/- towards funeral expenses. It is argued that the said compensation as awarded is not in consonance with the judgment rendered by the Constitutional Bench in case titled ***“National Insurance Co. Ltd. Vs. Pranay Sethi & Others, 2017(4) RCR (Civil) 1009***

5. Notices were issued, however, despite service no appearance has been caused on behalf of the claimants. It is noted that at the time of notice of motion issued, a co-ordinate bench of this Court had stayed recovery of an amount beyond Rs.13,00,000/-.

that needs to be addressed is whether the Tribunal has erred in allowing compensation to the claimants being on the higher side. In the opinion of the Court, the compensation as awarded has to be in consonance with the judgment as rendered by the Constitutional Bench and therefore, compensation when re-assessed, would be as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Sikandar Khan
(ii)	Date of accident	08.03.2016
(iii)	Age of the deceased	30 years
(iv)	Monthly income of the deceased	₹ 8000/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 8000+₹3200)= ₹ 11200/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 11,200-₹3733) = ₹ 7467/- per month
(vii)	Compensation calculated after applying the multiplier of 17	(₹ 7467X12X17) = ₹ 15,23,268/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹15,93,268

7. As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 15,93,268/-. The amount of compensation beyond Rs.13,00,000/- be released/paid along with 7.5 % interest from the date of claim petition till disbursement.

November 07, 2019
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[JAISHREE THAKUR]
JUDGE

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