

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

**Cross Objection-151-CII-2018 and
FAO-1098-2018 (O&M)
Date of Decision:02.09.2019**

Oriental Insurance Co. Ltd.

... Appellant

Vs.

Devinder Kaur and others

... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Ms. Jaspreet Kaur, Advocate
for the appellant.

Mr. Yogesh Gupta, Advocate
for respondents No.1 to 5.

Mr. M.S. Yadav, Advocate for
Mr. Sherry K. Singla, Advocate
for respondents No.6 and 7.

RITU BAHRI, J. (Oral)

This appeal as well as cross objection have been preferred against the award passed by Motor Accident Claims Tribunal, Mohali (hereinafter referred to as 'the Tribunal') vide award dated 27.10.2017 whereby compensation of ₹ 09,82,000/- has been awarded on account of death of the husband of respondent No.1 in a motor vehicular accident which took place on 20.08.2016.

Facts not in dispute

Brief facts of the case are that on 20.08.2016, Baldev Singh was going to Kharar from his village Padiala for purchasing vegetables on his Activa Scooter bearing registration No.PB-65W-558 at a slow speed and on left side of the road. He was being followed by Karnail Khan @ Kenni

on a separate motor cycle. At about 4.45 a.m., when he reached near Doaba College, V. Sahoran, a car bearing registration No.PB-32U-5214 came from opposite side in a rash and negligent manner from wrong side of the road struck into the scooter of Baldev Singh, as result of which, he fell down on the footpath of the road along with his scooter and suffered serious injuries on his head and face. He was taken to the Civil Hospital, Kharar, where he was declared dead.

Insurance company is not challenging the finding on issue No.1. This finding has rightly been given in favour of the claimants, keeping in view the fact that after the accident, FIR was registered against the driver. The appeal is by the Insurance company as well as the widow on the quantum of compensation.

Compensation assessed by the MACT

In view of the above facts and circumstances, the Tribunal awarded the compensation as under:

Particulars	Amount (in ₹)
Monthly income assessed	₹ 9,000/-
An addition of 15% of (i) actual salary to be added towards future prospects	₹ 10,350/- per month (₹ 9,000/- + ₹ 1,350/-)
1/4 th deducted towards personal expenses	₹ 7,750/- (Rs.10,350-2,600)
Compensation after multiplier of 9 is applied	₹ 7,750/- x 12 x 9 = ₹ 83,700/-
Loss of consortium (Claimant No.1)	₹ 1,00,000/-
Loss of love and affection to the remaining claimants	₹ 20,000/-
Funeral expenses	₹ 25,000/-
Total compensation awarded	₹ 9,82,000/-

It is submitted that income of the deceased i.e. ₹ 9,000/- was taken on higher side. It is further submitted that only widow was dependent

of the deceased and rest of family members were all major. Even future prospects were to be granted at the rate of 10% instead of 15% in view of the judgment of the Supreme Court rendered in the case of **National Insurance Company Ltd. v. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No.255590 of 2014**, decided on 31.10.2017. Compensation awarded under conventional heads and loss of consortium was also on higher side.

Learned counsel for the cross-objector submits that the deceased was owner of 6 acres of land and his income should be taken to be more than ₹ 9,000/-. It is further argued that deceased used to take agricultural land on theka from Amrinder Singh and this fact has been proved in paragraph 18 of the award. This aspect has been considered. However, no evidence was led and fact has been discarded on the ground that this witness namely Amrinder Singh admitted that deceased was his real paternal uncle.

Even if it is accepted that deceased was owner of 6 acres of land even then there is no scope for increasing the income. Accident took place in the year 2016. As per the minimum wages, the income of the deceased is rightly taken as ₹ 9,000/- and no further increase is required to be done.

However, future prospects were to be granted at the rate of 10% instead of 15% in view of the judgment of the Supreme Court rendered in the case of **National Insurance Company Ltd. v. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No.255590 of 2014**, decided on 31.10.2017. Thus, compensation as awarded by the Tribunal requires re-assessment which is as under:

Reassessed compensation

Particulars	Amount (in ₹)
Monthly income assessed	₹ 9,000/-
An addition of 10% of (i) actual salary to be added towards future prospects	₹ 9,000 + 900 =9900
1/4 th deducted towards personal expenses	₹ 7425/-
Compensation after multiplier of 9 is applied	₹ 7,425/- x 12 x 9 = ₹ 08,01,900/-
Loss of filail consortium	₹1,60,000/- (Rs.40,000/- each)
Conventional heads (Loss of estate, funeral expenses, loss of consortium)	₹ 70,000/-
Enhanced compensation	₹ 10,31,900 – 9,82,000 = ₹ 49,900/-

The enhanced amount of compensation of ₹ 49,900/- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of ***Dara Singh @ Dhara Banjara v. Shyam Singh Verma and others***, Civil Appeal No.4528 of 2019. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the appeal as well as cross objection are disposed of in the aforesaid terms.

02.09.2019
rajeev

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No