

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

FAO No. 3872 of 2017(O&M)

Date of decision: 25.1.2019

The New India Assurance Co. Ltd.

.....Appellant

VERSUS

Rinki Jha @ Rinki Devi and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Mr. Ashwani Arora, Advocate for respondents No.1 to 4.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 23.02.2017 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short 'the Tribunal') whereby compensation has been assessed on account of death of Mukesh Kumar in a motor vehicular accident that occurred on 07.03.2016.

Mr. Ashwani Arora, Advocate has caused appearance on behalf of respondents No.1 to 4/claimants.

Counsel for the insurance company would inform that as the appeal has been preferred only to challenge quantum of compensation service of respondent No.6 may be dispensed with. Ordered accordingly.

The Tribunal has awarded compensation of Rs.25,20,000/- detailed hereunder:-

Monthly income of the deceased	Rs.10,000/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/4 th
Multiplier	17

Loss of dependency	Rs.22,92,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-

Counsel for the insurance company would argue that income of the deceased assessed by the Tribunal is on higher side and benefit of future prospects should be 40%. In addition, it is submitted that compensation allowed under conventional heads needs to be restricted to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.**

Counsel representing the claimants has supported findings of the Tribunal with regard to income of the deceased by relying upon documents Ex.P10 to P16. He would further inform the Court that as per document Ex.P13, date of birth of deceased is 03.05.1988 and accordingly he was less than 28 years of age at the time of occurrence.

The Tribunal in para 8 of the award has noticed that claimants have proved certificates Ex.P10 to P15 and Mukesh Kumar was a graduate. There is no challenge to findings of the Tribunal that the deceased was a Pujari and doing the work of panditai. In the given circumstances, when the case is examined in the light of notification issued by the State of Haryana fixing minimum wage at the relevant time, there is no reason to interfere in assessment of income made by the Tribunal. However, the claimant shall be entitle to addition in income for future prospects at the rate of 40% in the light of judgments of Hon'ble the Supreme Court in

Pranay Sethi and others case (supra). In this manner, loss of dependency comes to Rs.21,42,000/- [Rs.20,40,000/- (Rs.10000 x 12 x 17) + Rs.8,16,000/- (40% addition towards future prospects) – Rs.7,14,000/- (1/4th deduction towards personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimant shall be entitle to Rs.70,000/- in the light of aforesaid judgments of Hon'ble the Apex Court.

In view of the above, total compensation is Rs.22,12,000/- and compensation awarded by the Tribunal is reduced to the extent of Rs.3,08,000/-. The insurance company shall be entitle to recover excess amount if already paid by filing an appropriate application.

The Tribunal has allowed interest at the rate of 6% in case the compensation is paid within two months, failing which the same would be 12%. The findings of the Tribunal with regard to payment of penal interest on account of failure to pay compensation within two months cannot be allowed to sustain and accordingly set aside. In this context, reference is made to judgment of Hon'ble the Supreme Court **National Insurance Co. Ltd. Vs. Keshav Bahadur, 2004 ACJ 648**. At the same time, interest at the rate of 6% allowed by the Tribunal is on lower side. The compensation assessed by this Court shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

Disposed of accordingly.

JANUARY 25, 2019

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no