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

FAO No. 1271 of 2018 (O&M)
Date of decision : January 10, 2019

New India Assurance Company Limited .....Appellant

Versus

Shamsher Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Paul S. Saini, Advocate
for the appellant.

None for respondent No. 1.

Mr. Amit Mann, Advocate for
Mr. Jasbir Mor, Advocate
respondents No. 2 and 3.

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LISA GILL, J.

Present appeal has been filed by New India Assurance Company Limited challenging award dated 18.10.2017 passed by the learned Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as the 'Tribunal').

Learned counsel for the appellant submits that the income of the injured has been assessed excessively i.e. at the rate of ₹6,000/- per month. Moreover, addition of 50% instead of 40% has been made by the learned Tribunal while calculating the loss of income. It is further contended that learned Tribunal has erred in directing that, in case, the amount of compensation is deposited within two months of the passing of the award, interest at the rate of 7.5% shall be charged and in default thereof the appellant would be liable to pay interest at the rate of 9% per annum till its deposit.

Claim petition under Section 166 of the Motor Vehicles Act was filed by the claimant seeking compensation on account of injuries and disability suffered by him. It is not in dispute that the claimant – respondent suffered injuries in the motor vehicle accident which took place on 23.03.2016. It is relevant to note at this stage that liability of the insurance company is not disputed neither is there any challenge to the nature and manner of the accident in question. It is further not in dispute that the claimant – respondent suffered 100% disability in the accident which took place on 23.03.2016. Learned Tribunal while concluding that there is no evidence on record to prove that the injured was working as a Shopkeeper dealing in Spare parts, assessed his income as ₹6,000/- while considering him to be a daily wager. Increment of 50% on account of future prospects was afforded.

Learned Tribunal awarded compensation to the claimant - injured which is detailed hereunder:

Medical expenses	:	₹15,30,386/-
Special diet & transportation	:	₹15,000/-
Disability & loss of income	:	₹16,20,000/-
Pain and suffering	:	₹1,00,000/-
Attendant charges	:	₹2,00,000/-

Doubtlessly learned Tribunal has erred in affording increment of 50% on account of future prospects. Keeping in view the decision of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 40% should be afforded.

However, I do not find any ground whatsoever to interfere in the total quantum of compensation awarded to the injured - claimant while particularly noting that the minimum wage in the State of Haryana at the time of accident as on 23.03.2016 was admittedly much more than ₹6000/- per month. Learned counsel for the appellant is unable to deny this fact. Therefore, excess increment of 10% afforded by the learned Tribunal would necessary be taken care of.

In view of the peculiar facts and circumstances of the case, I do not deem it appropriate to delve into the question of the direction of the learned Tribunal to pay interest at the rate of 9% in case the amount of compensation is not deposited within two months.

No other argument has been raised.

Keeping in the view the facts and circumstances of the case, this appeal filed by the insurance company is dismissed with no order as to cost.

January 10, 2019 **(Lisa Gill)**
rts **Judge**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No