

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 10.05.2019

FAO-3916-2017 (O&M)

UNITED INDIA INSURANCE CO LTD

... Appellant

Versus

PRITHI & ORS

... Respondents

FAO-4609-2017 (O&M)

UNITED INDIA INSURANCE CO LTD

... Appellant

Versus

SANJEEV KUMAR & ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram Avtar, Advocate for the insurance company.
None for the respondents.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3916 and 4609 of 2017 as these have emerged out of the same award dated 01.02.2017 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been assessed on account of death of Pooja and injuries sustained by Sanjeev Kumar @ Somi in a motor vehicular accident that took place on 26.07.2014.

FAO No.3916 of 2017 has been filed to assail compensation allowed in regard to death of Pooja whereas the other appeal has been filed qua injuries sustained by Sanjeev Kumar @ Somi.

FAO No.3916 of 2017

Counsel for the appellant would inform that the appeal has been preferred primarily to assail quantum of compensation assessed by the Tribunal.

The Tribunal awarded Rs.10,24,800/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.8100/-
2. Multiplier	18
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.8,74,800/-
5. Expenses on funeral/transportation	Rs.50,000/-
6. Loss of love and affection	Rs.1,00,000/-
	(Rs.50,000/- each)

Counsel for the appellant would argue that the Tribunal has assessed income of the deceased on the basis of Deputy Commissioner's rates meant for payment of wages to employees out of contingency fund of the State. It is further argued that the deceased was 16 ½ years old and a student of 10+1, therefore, only notional income needs to be assessed for computing loss of dependency. It is further argued that compensation allowed under conventional heads needs to be restricted to Rs.30,000/- in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

There is no representation on behalf of the claimants despite service.

The Tribunal has noticed that the deceased was a student of 10+1, aged 16 ½ years old. As has been rightly argued by counsel for the appellant, Deputy Commissioner's rates are meant for payment of wages to employees out of contingency fund of the State. Taking a clue from notification issued by the State of Haryana coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.6000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. In this context, reference can be made to judgment of this Court **National Insurance Co. Ltd. Vs. Pushpa Singh Chauhan and others, FAO No.1502 of 2015, decided on 20.03.2015** affirmed by Hon'ble the Supreme Court in Special Leave Petition (C) S. No.19533 of 2015. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.15,000/- for funeral expenses.

Total compensation is Rs.9,22,200/- and compensation assessed by the Tribunal is reduced to the extent of Rs.1,02,600/- (10,24,800 - 9,22,200).

The appeal is partly allowed in the aforesaid terms.

FAO No.4609 of 2017

Counsel for the appellant has not challenged quantum of compensation allowed to Sanjeev Kumar @ Somi, however, it has been urged that though the Tribunal has given recovery right on the question of route permit and permit but recovery right has not been given on the question of driving licence.

The appeal stands disposed of but without prejudice to right of the insurance company that in case a challenge is made against recovery right given to the insurance company, the insurance company would be at liberty to raise a plea with regard to recovery right qua driving licence.

10.05.2019

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Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No