IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 4672 of 2017(O&M)

Date of Decision: May 14 , 2019.

New India Assurance Company Ltd. ...... APPELLANT (s)

Versus

Neelam Rani and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashwani Talwar, Advocate for the appellant.

Mr. S.R.Chaudhary, Advocate for respondents No.1 to 3.

Mr. N.S.Dandiwal, Advocate for respondents No.4 and 5.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This appeal has been preferred by the Insurance company challenging the quantum of compensation afforded to the legal representatives of deceased-Pawan Kumar vide impugned award dated 19.04.2017 passed by the learned Motor Accident Claims Tribunal, Ludhiana (for short, the 'Tribunal').

Brief facts necessary for the adjudication of the case are that, the claimants/respondents No.1 to 3, filed a petition under Section 166 of the Motor

Vehicles Act seeking compensation on account of death of Pawan Kumar, who lost his life in a motor vehicle accident which took place on 07.09.2015. FIR No.251 dated 08.09.2015 under Sections 304A/283/427 IPC (Ex.P11) was lodged in respect to the incident. Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No.PB-29M-8096 by respondent No.5-Jagwinder Pal Singh. There is no challenge to this finding of the learned Tribunal.

Deceased-Pawan Kumar was held to be 43 years old at the time of the accident. His income was assessed as ₹7,000/- per month, while taking him to be a skilled person. Deduction to the extent of 1/4th was effected. Addition of 30% towards future prospects was afforded. Multiplier of 14 was applied. ₹1,00,000/- was awarded to the claimants towards loss of consortium, ₹50,000/- was afforded on account of loss of care and guidance for the minor children, besides, ₹10,000/- on account of funeral expenses. A total sum of ₹13,06,600/- was afforded to the claimants.

Aggrieved from the quantum of compensation, present appeal has been preferred by the Insurance company.

Learned counsel for the appellant-Insurance company submits that increment on account of future prospects should be at the rate of 25% and not 30% and deduction should be effected to the extent of 1/3rd instead of 1/4th keeping in view the fact that the number of dependants in this case are three. Excessive compensation under the conventional heads, it is submitted, has been afforded. It is thus prayed that the compensation be reworked accordingly.

Learned counsel for respondents No.1 to 3/claimants does not dispute that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***, it is the increment of 25% which is be afforded for future prospects. It is further not denied that as the dependants in this case are three, deduction of 1/3rd is to be effected towards personal expenses. It is however submitted by learned counsel for respondents No.1 to 3 that compensation under the conventional heads be reworked in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.,** ***2018(4) RCR(Civil) 333***.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding death of Pawan Kumar, in a motor vehicle accident which took place on 07.09.2015 due to the rash and negligent driving of the offending truck bearing registration No.PB-29M-8096 by respondent No.5-Jagwinder Pal Singh. Deceased-Pawan Kumar was 43 years old at the time of the accident. Increase in income on account of future prospects is to be afforded at the rate of 25% in view of the observations of the Hon'ble Supreme Court in Pranay Sethi (supra). Multiplier of 14 has been correctly applied. However, learned Tribunal has erred in effecting the deduction at the rate of 1/4th instead of 1/3rd keeping in view the number of dependants i.e., three.

Claimants are entitled to ₹15,000/- each towards loss of estate and funeral expenses, instead of ₹10,000/- on account of funeral expenses. Instead of ₹1,00,000/- awarded to the claimant-widow on account of loss of consortium, she is held entitled to ₹40,000/- and minor children are entitled to ₹40,000/- for loss of parental consortium in terms of the judgments of the Hon'ble Supreme Court in Pranay Sethi (supra) and Magma General Insurance Company Ltd. (supra) as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Respondents No.1 to 3/claimants are, thus, entitled to compensation of ₹10,90,000/- instead of ₹13,06,600/-, which is detailed as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	7,000 p.m. i.e. 84,000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	84,000 + (84,000 **x** 25%) = 1,05,000
3.	Net income after 1/3rd deduction on account of personal expenses	1,05,000 – (1,05,000 **x** 1/3) = 70,000
4.	Total dependancy after applying a multiplier of 14	(70,000 **x** 14) = 9,80,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to respondent No.1	40,000
8.	Loss of parental consortium to respondents No.2 and 3	40,000
	Grand Total	₹10,90,000/-

Appeal is accordingly disposed of with the modification as above in the amount of compensation.

(LISA GILL)
JUDGE

May 14 , 2019.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No