

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.6646 of 2017 (O&M)

Date of Decision: January 30, 2019

National Insurance Company Ltd.

.....APPELLANT

VERSUS

Baby Jaisika and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Suman Jain, Advocate
for the appellant.

Mr. Rahul Deswal, Advocate
for claimants/respondents No.1 to 4.

Mr. Rakesh Nagpal, Advocate
for respondent Nos.5 and 6.

SURINDER GUPTA, J.

This is appeal filed by National Insurance Company Limited, the insurer of motor-cycle bearing registration No. HR-23C-8233 against the award dated 10.07.2017 passed by Motor Accident Claims Tribunal, Fatehabad (later referred to as 'the Tribunal') allowing compensation of ₹18,49,200/- for the death of Suresh Kumar (later referred to as the deceased) in a motor vehicle accident with motorcycle bearing registration No. HR-23C-8233.

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The amount of compensation awarded to the claimants was

assessed by the Tribunal as follows:-

(i)	Name of the deceased	Suresh Kumar
(ii)	Age of the deceased (taken by the Tribunal)	45 years
(iii)	Monthly income (as assessed by the Tribunal)	₹9000/- per month
(iv)	30% of (iii) above added as future prospects	₹9000+2700= ₹11,700/- per month
(v)	1/4th of (iv) deducted as personal expenses of the deceased	₹8775 [₹11700-₹2925/- =₹8775 p.m.]
(vi)	Compensation after applying multiplier of 14 comes to	₹1,05,300X14= ₹14,74,200/-
(vii)	Loss of consortium to claimant no.3	₹1,00,000/-
(viii)	Compensation on account of Love and affection to claimants No. 1 and 2.	₹1,00,000/-
(ix)	Compensation on account of Love and affection to claimant No.4	₹ 1,00,000/-
(x)	Funeral expenses	₹25,000/-
(xi)	Amount towards treatment, hospital expenses, care, attendant, transportation, medicines etc.	₹50,000/-
	Total :	₹18,49,200/-

Learned counsel for the appellant has challenged the quantum of compensation on two grounds, firstly, that the Tribunal has awarded 30% addition in the income of the deceased towards loss of future prospects, which is to be restricted to 25% and secondly, under the conventional heads, the Tribunal has awarded compensation of ₹3,25,000/-, which is to be restricted to ₹70,000/-, as per law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.***

Learned counsel for claimants/respondents No.1 to 4 has not disputed the law as settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, as per which addition in the income of the deceased towards loss of future prospects is to be restricted to 25% and the compensation under the

conventional heads as ₹70,000/-.

Keeping in view the law settled by Hon'ble Apex Court in case of *Pranay Sethi (Supra)* compensation awardable to the claimants is reassessed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹9000 per month
(ii)	25% of above (i) to be added as future prospects	(₹9000+₹2250)= ₹11250 per month
(iii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹11250-₹2813)= ₹8437 per month
(iv)	Compensation after multiplier of 14 is applied	(₹8437X12X14)= ₹1417416/-
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Loss of funeral expenses	₹15000
(viii)	Amount towards treatment, hospital expenses, care attendant etc.	₹50,000/-
<i>Total</i>		₹15,37,416/-

As a sequel of my above discussion, this appeal is accepted and award passed by the Tribunal is modified to the extent that the amount of compensation as awarded by the tribunal is reduced from ₹18,49,200/-to ₹15,37,416/-. The liability to pay the compensation amount and its disbursement between the claimants shall be as per the award. The appellant-insurance company is entitled to recover the excess amount, if already paid, from the claimants. Keeping in view facts and circumstances of the case, parties are left to bear their own costs.

January 30, 2019.
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No