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

**FAO No. 7268 of 2017(O&M) &
XOBJC-217-CII of 2018**

Date of decision: 5.3.2019

National Insurance Company Ltd. …..Appellant

VERSUS

Rajbir Kaur and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Amit Kumar Goyal, Advocate for the appellant.

Mr. P.K. Kataria, Advocate for respondent No.1 to 4/cross objectors.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.7268 of 2017 and cross objections No.217-CII of 2018 as these have emerged out of the same award dated 08.05.2017 passed by the Motor Accidents Claims Tribunal, Tarn Taran (in short 'the Tribunal') whereby compensation has been assessed on account of death of Rajwinder Singh in a motor vehicular accident that took place on 25.03.2016.

FAO No.7268 of 2017 has been filed by the insurance company and counsel would inform that appeal has been preferred to assail quantum of compensation assessed by the Tribunal. Cross objections have been preferred by the claimants seeking enhancement of compensation.

The Tribunal has awarded Rs.15,88,000/- detailed hereunder:-

Monthly income of the deceased Rs.6000/-

Addition in income for future prospects	50%
Deduction for personal expenses	1/4th
Multiplier	18
Loss of dependency	Rs.14,58,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium to the widow	Rs.1,00,000/-
Loss of estate	Rs.5000/-

Counsel for the insurance company would urge that addition in income for future prospects is liable to be restricted to 40% and compensation under conventional heads to the extent of Rs.70,000/-. In support of his contention, he has relied upon 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 for the cross objectors/claimants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement.

The plea of the claimants is that deceased was doing the business of sale and purchase of cattle thereby earning Rs.20,000/- per month. The Tribunal in para 16 of the award has noticed that there is no evidence on record except bald statements of Rajbir Kaur, widow and Paramjit Singh, father of the deceased that deceased was involved in the business of sale and purchase of cattle. The plea of the claimants in this regard does not find corroboration from any independent source much less documentary evidence. Taking a clue from the notification issued by the

State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.7250/- per month. Claimants shall be entitle to addition in income for future prospects at the rate of 40%. The application for compensation has been filed by the widow, parents and minor son of Rajwinder Singh. There is nothing on record suggestive of the fact that father of the deceased had any disability to render him dependent upon income of his son. In the given scenario, admissible deduction for personal expenses would be 1/3rd. Multiplier applied by the Tribunal is correct and affirmed. Accordingly, loss of dependency comes to Rs.14,61,600/- [Rs.15,66,000/- (Rs.7250 x 12 x 18) + Rs.6,26,400- (40% addition towards future prospects) – Rs.7,30,800/- (1/3rd deduction towards personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others case** (supra) and **Sebastiani Lakra and others case (supra),** detailed hereunder:**-**

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.15,31,600/- and compensation awarded by the Tribunal is reduced to the extent of Rs.56,400/- (Rs.15,88,000/- - Rs.15,31,600/-). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

For the foregoing reasons, the appeal filed by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, cross objections filed by the claimants are dismissed.

MARCH 5, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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