

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

FAO-7733-2017 (O&M)

Date of Decision:08.11.2019

National Insurance Company Limited ... Appellant

Vs.

Rani and others ... Respondents

Coram : HON'BLE MRs. JUSTICE LISA GILL

Present : Ms. Vandana Malhotra, Advocate
for the appellant.

LISA GILL, J. (Oral)

This appeal has been filed by the appellant-Insurance company challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Ludhiana, vide award dated 1.8.2017.

None has appeared on behalf of respondents-claimants No.1 to 4. They were proceeded ex parte vide order dated 25.4.2018. As per office report, respondents No.5 and 6 are unserved. However, learned counsel for the appellant submits that as the challenge in this appeal is only to the quantum of compensation, therefore, service upon the said respondents be dispensed with. Ordered accordingly.

Brief facts for adjudication of this case are that claimants -respondents filed a claim petition under Section 166 of the Motor Vehicle Act seeking compensation on account death of Vijay Kumar due to injuries received by him in road accident due to rash and negligent driving of the offending vehicle.

Learned Tribunal on considering the evidence on record concluded that Vijay Kumar died due to rash and negligent act of the driver of the offending vehicle. Vijay Kumar was accepted to be a labourer/painter

and his income was assessed as Rs.7,000/- per month. In view of the above facts and circumstances, the Tribunal awarded the compensation as under:

	Particulars	Amount (in ₹)
1	Monthly income assessed	₹ 7,000/-
2	With increment @ 50%, monthly income	₹ 11,000/-
3	Deduction of 1/3 rd	₹ 7,000/-
4	Compensation after multiplier of 17 is applied	₹ 7,000/- x 12 x 17 = ₹ 14,28,000/-
5	Loss of consortium (Claimant No.1)	₹ 1,00,000/-
6	Loss of love and affection to the remaining claimants	₹ 1,00,000/-
7	Funeral expenses	₹ 25,000/-
8	Total compensation awarded	₹ 16,53,000/-

The appellant-Insurance company being aggrieved of the quantum of compensation awarded by the learned Tribunal has filed this appeal.

Learned counsel for the appellant submits that in view of the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. v. Pranay Sethi and others;** AIR 2017 SC 5157 grant of increment @ 50% towards future prospects is clearly illegal and unjustified. It is further submitted that compensation under the conventional heads is also excessive. Therefore, compensation awarded to the claimants be reduced accordingly.

I have heard learned counsel for the parties and have gone through the file. There is no challenge to the liability of the insurance company in this appeal or to the finding of the learned Tribunal that Vijay Kumar died due to injuries received by him in road accident due to rash and negligent driving of the offending vehicle.

Learned Tribunal has assessed the income of the deceased to be Rs.7000/- per month while treating him to be a labourer/painter. Learned

counsel for the appellant is unable to deny that the minimum wages of even an unskilled labourer in the State of Punjab at the time of accident was Rs.7458/- and minimum wage of a semi skilled labourer was Rs.8238/- and that of a skilled labourer which is the category in which a painter is included was Rs.9135/-. It is further noticed that the learned Tribunal has applied deduction of $\frac{1}{3}^{\text{rd}}$ in this case whereas there are four claimants i.e. widow, two minor children and mother of the deceased. In this view of the matter, even if income of the deceased is assessed as Rs.7458/- i.e. minimum wages available to unskilled labourer, deduction of $\frac{1}{4}^{\text{th}}$ is applied and increment towards future prospects @ 40% is taken, indeed there is no scope of any reduction in the compensation awarded to the claimants.

No other argument has been addressed.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 1.8.2017 which calls for any interference by this Court.

The appeal is, accordingly, dismissed with no order as to costs.

08.11.2019
rajeev

(LISA GILL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No