

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

-.-

FAO 4865 of 2017

Date of decision: 08.04.2019

Oriental Insurance Company Limited

.....*Appellant*

Versus

Ravinder Kaur and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Amit Kundra, Advocate
for the appellant

None for respondents No. 1 to 4

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 07.03.2017 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Subhash Chand in a motor vehicular accident that took place on 01.07.2015.

The Tribunal has awarded Rs.18,72,000.00 represented in a tabulated form in para 17 of the award.

Counsel for the insurance company has assailed quantum of compensation in respect of future prospects allowed at the rate of 30% as against 25%, in the light of judgment of Hon'ble the Supreme Court

National Insurance Company Limited v. Pranay Sethi and others, 2017

SCC 1270. Similarly, it has been argued that compensation allowed under conventional heads needs to be restricted to Rs.70,000.00, in the light of **Pranay Sethi's** case (supra) and **Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.** .

There is no representation on behalf of respondents No. 1 to 4, earlier being represented by a counsel.

The plea of the claimants is that the deceased was working as Electrician at salary of Rs.25,000/- per month i.e. Rs.15,000/- as electrician and Rs.10,000/- from cable business. The Tribunal has assessed income of the deceased at Rs.12,000/- per month. The Tribunal has added 30% towards future prospects but the same would be 25% as the deceased was more than 40 years of age. Deduction for personal and living expense and multiplier applied by the Tribunal are correct and affirmed. As such, loss of dependency is Rs.16,80,000/- (Rs.20,16,000/- i.e. 12,000/- x 12 x 14 + Rs.5,04,000/- (25% addition) – Rs.8,40,000/- (1/3rd deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of aforesaid judgments of Hon'ble the Supreme Court.

Total compensation is Rs.17,50,000/- and compensation awarded by the Tribunal is reduced to the extent of Rs.1,22,000/-. The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

08.04.2019
Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No