

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

**CM-7797-CII of 2020 in/and
F.A.O. No. 1100 of 2018 (O&M)
Date of Decision: 26.08.2020**

United India Insurance Company Limited

.....Appellant.

Versus

Premo Devi and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajesh Kumar Sharma, Advocate
for the non-applicant-appellant.

Mr.Ashit Malik, Advocate
for the applicants-respondents.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

CM-7797-CII of 2020.

Prayer in this application is for preponement of the hearing of the main appeal i.e. FAO No. 1100 of 2018 which stands adjourned to 04.11.2020 due to the outbreak of the pandemic, COVID-19.

Learned counsel for the non-applicant-appellant does not raise any serious objection to the preponement of the hearing of the main appeal.

At request and with consent of learned counsel for the parties, hearing of the main appeal i.e., FAO No. 1100 of 2018, is preponed from 04.11.2020, for today itself.

Application is accordingly disposed of.

FAO No. 1100 of 2018.

This appeal has been filed by the insurance company seeking reduction of the compensation awarded to claimants-respondents no.1 to 3 vide award dated 21.10.2017, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal).

Claimant-respondents no.1 to 3 had filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Des Raj, husband of claimant-respondent no.1, in a motor vehicle accident, which took place on 12.11.2016, due to the rash and negligent driving of the offending vehicle bearing registration No.HR-45B-5184, by its driver-respondent no.1.-Jai Pal in claim petition.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Jai Pal. Said finding of the learned tribunal has attained finality.

Learned tribunal while holding the deceased to be 53 ³/₄ years old, assessed his income as Rs.10,520/- per month and a total sum of Rs.12,89,700/- was awarded by the learned Tribunal, which is detailed as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	Rs.10,520/- p.m.
2.	Addition of future prospects	15%
3.	Deduction	1/3 rd
4.	Multiplier	11
5.	Loss of consortium, love and affection, funeral expenses	Rs.2,25,000/-
	Total	Rs.12,89,700/-

Aggrieved therefrom, present appeal has been filed by the appellant-Insurance Company.

It is not in dispute that it is only the question of quantum of compensation, which is the subject matter of dispute now. Learned counsel for the respondents submits that there is no objection, in case, the appeal is disposed of in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009, Magma General Insurance Company Ltd. v. Nanu Ram alias Chuhru Ram & Ors. 2018(4) RCR Civil 333**, besides **decision dated 07.09.2020 of the Hon'ble Supreme Court in Civil Appeal No.3093 of 2020, titled The New India Assurance Co. Ltd. versus Som Wati**. It is further submitted that there is no objection, in case, income of the deceased is taken as Rs.8070/- instead of Rs.10,520/- p.m., i.e., the minimum wage as available in the State at the time of the accident instead of the D.C. rates, which have been awarded by the learned tribunal. Calculation in respect to the compensation which the respondents are ready and willing to receive instead of the awarded amount, has been set forth by them, as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	Rs.8070/- p.m.
2.	Total income after addition of future prospects at the rate of 10%	Rs.8070 (Rs. 8070 + 807)= Rs.8877/-
3.	Deduction of 1/3 rd on account of personal expenses	Rs.8877/- (Rs.8877 * 1/3 = Rs.5918/-
4.	Annual dependency after applying multiplier of 11	Rs. 5918/- x 11 x 12 =Rs.7,81,176/-
5.	Loss of consortium	Rs.40,000/-
6.	Parental consortium	Rs.80,000/-
7.	Funeral expenses	Rs.15,000/-
8.	Loss of estate	Rs.15,000/-
	Total	Rs.9,31,176/-

Learned counsel for the appellant-Insurance Company, submits that there is no objection, in case, the appeal is disposed of while reducing the compensation to the amount as mentioned above.

Keeping in view the specific stand of the parties, compensation awarded to the respondents, is thus, reduced from Rs.12,89,700/- to Rs.9,31,176/-. Rate of interest at the rate of 6% per annum on the total awarded compensation from the date of filing the petition till its realization as awarded by the learned tribunal, shall enure. Needless to say, the amount to which the respondents-claimants are entitled, be released out of the amount deposited by the appellant in compliance of order dated 20.02.2018 passed in this appeal. In case, the said amount is deficient, the remaining amount be released by the appellant within four weeks of receipt of certified copy of the order.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

26.08.2020
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.