IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 143 of 2021 (O&M)
Date of Decision: March 25, 2021

National Insurance Co. Ltd. ...... Appellants(s)

Versus

Smt. Sonu and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Aseem Aggarwal, Advocate for the applicant-appellant.

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LISA GILL, J.

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

This appeal has been filed by the appellant-insurance company impugning award dated 04.12.2019, passed by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal), on the ground of excessive compensation being granted to the claimants, who are the legal heirs of deceased Veer Singh. Claimants-respondents filed claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation on account of death of Veer Singh. The claim petition was filed by the widow, three children, two of them being minor and mother of the deceased. Learned Tribunal while considering the deceased Veer Singh to be a daily wager, assessed his income as Rs.8,500/- per month i.e. the minimum wages at the time of the accident, which took place on 05.02.2018 and awarded compensation of Rs.19,46,096/-, which is detailed as hereunder:-

Sr. No.	**Heads**	**Calculations**
1.	Income	8,500/- per month
2.	Income after adding 50% on account of future prospects	8500 + 4,250 = 12,750/- per month
3.	Income after deducting 1/4th as personal living expenses of the deceased	12,750 - 1/4th = 9,563/- per month
4.	Dependency after applying multiplier of 16	9,563 x 16 x 12 = 18,36,096/- per annum
5.	Compensation on account of loss of consortium and funeral expenses	70,000 + 40,000 = 1,10,000/-
	Total	**19,46,096/-**

Interest @ 8% was awarded.

Argument raised by learned counsel for the appellant is that though the deceased was 33 years old at the time of accident, learned Tribunal has awarded future prospects at the rate of 50% whereas the same should have been afforded at the rate of 40% in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, *2017(16) SCC 680***. It is thus prayed that this appeal be allowed.

I have heard learned counsel for the appellant and have gone through the file.

Doubtlessly, in terms of the judgment of Hon'ble Supreme Court in ***Pranay Sethi's*** case (supra), future prospects should have been awarded at the rate of 40% and not 50%. However, keeping in view the fact that in case, loss of parental consortium is afforded to the three children of deceased Veer Singh, in terms of judgments of Hon'ble Supreme Court in

Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors*. 2017(4) RCR Civil 333** and ***United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, 2020(3) RCR (Civil) 75, there would be an increase of Rs.1,20,000/- in the total compensation awarded. It is relevant to note that this is the reduction, which learned counsel for the appellant has projected in case future prospects are afforded @ 40%. Appeal, if any filed by the claimants has not been brought to my notice.

Keeping in view the peculiar facts and circumstances of the case, I do not find it appropriate to issue notice to the respondents-claimants solely on this ground. Accordingly, this appeal is dismissed with no order as to costs. It is clarified that any observation in this appeal is without prejudice to the rights of claimants in appeal, if any, filed by them, as well as right of the appellant to agitate the question of adjustment of rate of future prospects.

(LISA GILL)
JUDGE

***March 25, 2021*.**

Sunil

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