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

Sr. No.207 **FAO No.1433 of 2017 (O&M)**
DATE OF DECISION: February 17, 2021

ORIENTAL INSURANCE COMPANY LIMITED

..APPELLANT

VERSUS

SIAM KAUR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. D.P. Gupta, Advocate,
for the appellant.

Mr. Ashwani Arora, Advocate with
Mr. Ashish Singh, Advocate,
for respondent No.1.

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SUDHIR MITTAL, J. (ORAL)

This appeal is directed against Award dated 03.11.2016 passed by the Motor Accident Claims Tribunal, SAS Nagar Mohali, whereby compensation amounting to ₹14,02,000/- has been awarded to the claimants along with interest @ 9% per annum in case the awarded amount is not paid within a period of 03 months.

The accident took place on 22.10.2015. The deceased-Satpal Singh @ Sattu was riding pillion on a motor cycle which was hit by a car from behind resulting in his death. The deceased was working as a Raj Mistri and was aged 30 years.

Learned counsel for the appellant has submitted that income of ₹9000/- per month assessed by the Tribunal is erroneous. The claimant had claimed that the monthly earnings were ₹15,000/- per month which were reduced to ₹9,000/- per month by the Tribunal as there was no documentary proof of the earnings. Notification dated 15.10.2015 in force on the date of the accident provides that a semi skilled worker would earn minimum wages of ₹7715.62 paise per month. Further, future prospects have been assessed at 50% of the income. The judgment of the Supreme Court in ***National Insurance Company Limited vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009*** has laid down that where the deceased is not in permanent employment and is below 40 years of age the increase on account of future prospects must be limited to 40% of his income. Interest granted @ 9% per annum is also excessive.

Learned counsel for the respondents submits that in accordance with the judgment of the Supreme Court in ***Chameli Devi and others vs. Jivrail Mian and others, 2019 ACJ 3011***, assessment of income @ ₹300/- per day in the year 2015 in case of a semi skilled person is not unjustified. Moreover, under conventional heads the claimants were entitled to ₹70,000/- whereas only ₹25,000/- has been granted by the Tribunal. It is conceded that future prospects have to be restricted to 40%.

In the case of ***Chameli Devi (supra)***, the accident had taken place in the year 2001. The deceased was a Carpenter and considering him to be a semi skilled person, the Supreme Court assessed his income at ₹200/- per day. Monthly income was assessed at ₹5,000/- keeping in view the fact that a Carpenter may not be employed on every day of the month.

Taking a cue from this judgment, assessment of the daily income of the deceased as ₹300/- may not be unjustified. Applying the yardstick that a Raj Mistri may not be employed on every day of the month, the assessment of the monthly income at ₹8,000/- would meet the ends of justice. Thus, the annual income of the deceased would be ₹96,000/- to be increased by 40% on account of future prospects which works out to ₹38,400/-. Accordingly, the annual income is assessed as ₹1,34,400/-. The deceased was a bachelor and thus, 50% has to be reduced for personal expenses. The annual dependency is thus is ₹67,200/-. Multiplying this figure by 17, the compensation works out to ₹11,42,400/-. To this amount, ₹70,000/- is to be added under conventional heads and thus, the total compensation works out to ₹12,12,400/-.

The appeal is thus allowed and award is modified. Total compensation payable is assessed as ₹12,12,400/-. Award of penal interest @ 9% per annum is also set aside.

Learned counsel for the claimants submits that some amount of the compensation has been received in execution. Thus, the balance amount be paid within four weeks from the date of receipt of a certified copy of this order.

February 17, 2021 **(SUDHIR MITTAL)**
Ankur **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No