

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

226

**FAO-7891-2015 (O&M)
Decided on : 18.04.2022**

National Insurance Company Limited

... Appellant(s)

Versus

Rooma Rani and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Rathul Pathania, Advocate
for the appellant-Insurance Company.

Mr. Varun Sharma, Advocate
for respondents No.1 to 4.

None for respondent No.6.

MANJARI NEHRU KAUL, J. (Oral)

The instant appeal has been preferred by the Insurance Company against the award dated 31.08.2015, passed by the learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal'), in a claim petition filed u/s 166 of the Motor Vehicles Act, 1988, by the claimants/respondents No.1 to 4 i.e. widow, two minor children and mother of the deceased Manjit Singh, who was 30 years of age at the time of accident in question. The Tribunal on the basis of the material and evidence led awarded the following compensation to the claimants/respondents No.1 to 4:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1.	Monthly Income	Rs.10000/-
2.	Future Prospects (50%) (10000 x 50/100 = 5000)	Rs. 15000 (10000 + 5000)
3.	Annual Income	12 x 15000= Rs.180000/-
4.	Deduction (1/4 th)	Rs.45000/-

5.	Annual Dependency	Rs.135000/-
6.	Multiplier	17
7.	Total Dependency	Rs.135000 x 17=Rs.22,95,000/-
8.	Loss of estate	Rs. 22,95,000/-
9.	Loss of Consortium (wife)	Rs.1,00,000
10.	Loss of care & guidance (minor children)	Rs.1,00,000
11.	Mental agony	Rs.25,000
	Total Compensation (8+9+10+11)	Rs.25,20,000/-

Appellant-Insurance Company was directed to pay the amount of compensation to the claimants-respondent No.1 to 4 along with interest @ 7% per annum, from the date of the claim petition till the date of realization.

A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 4 may be noticed. On 28.07.2013, while the deceased Manjit Singh was driving his car bearing registration No. HR-03G-0475, offending tanker bearing registration No. HP-12C-3831, being rashly and negligently driven by respondent No.5, hit against his car. On account of the injuries suffered in the accident in question, Manjit Singh died.

Learned counsel for the appellant-Insurance Company submits that in fact it was a case of contributory negligence on the part of the deceased driver, which was erroneously ignored by the Tribunal. He further submits that the Tribunal gravely erred in assessing 50% towards future prospects instead of 40%, as admittedly the deceased was not a Government employee, but an agriculturist. It was also submitted that under the conventional heads also, the Tribunal had awarded an exorbitant amount of compensation against the settled law, which required to be re-assessed and

scaled down.

Learned counsel for the claimants/respondents No.1 to 4 on the other hand submits that it stood duly proved before the Tribunal that the accident in question occurred due to the rash and negligent driving of respondent No.5 i.e. driver of the offending tanker and an FIR No.92, dated 29.07.2013, under Sections 279, 337 & 304-A of IPC, was registered soon after the accident in question against him. He submits that hence the question of there being contributory negligence on the part of the deceased did not arise. He further submits that the deceased was an agriculturist and was earning a substantial income from agriculture. Therefore, the compensation had been rightly assessed and awarded to the claimants/respondents No.1 to 4, which did not warrant any interference.

I have heard learned counsel for the parties and perused the relevant material on record.

The monthly income of the deceased, which has been assessed in the sum of Rs. 10,000/- p.m., and the deductions of 1/4th as assessed by the Tribunal do not warrant any interference. However, the Tribunal has erred in assessing 50% towards future prospects instead of 40%. Hence, the future prospects need to be re-assessed as per the settled law. The compensation assessed under some other conventional heads also requires to be re-assessed in the light of the settled law in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*.

The Hon'ble Supreme Court in *Pranay Sethi's case (supra)* has quantified the amount in the sum of Rs.15,000/- each and Rs.40,000/- to be awarded under conventional heads i.e. loss of estate, funeral expenses and

loss of consortium respectively. Still further, it has been held that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement *qua* the compensation under conventional heads, as has also been held and reassessed by Hon'ble Supreme Court in *Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344* as per the ratio laid down in *Pranay Sethi's case(supra)*. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate, funeral expenses. Besides this, the claimants, who are widow, two minor children and mother of the deceased, are entitled to Rs. 44,000/- each, for loss of spousal, parental & filial consortium, respectively.

Resultantly, the compensation is re-assessed as follows:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1.	Monthly Income	Rs.10,000/-
2.	Annual Income	12 x 10000=Rs.1,20,000/-
3.	Future Prospects (40%)	Rs.120000 x 40/100=Rs.48,000/-
4.	Total Annual Income	Rs.1,68,000/-
5.	Deduction towards personal expenses (1/4 th)	Rs.42,000/-
6.	Loss of Annual future earnings	Rs.1,26,000/-
7.	Multiplier (as age of deceased was 30 years)	17
8.	Loss of Future earnings	Rs.126000 x 17 = Rs. 21,42,000/-
9.	Loss of spousal, parental & filial consortium (wife, two minor children & mother)	Rs.44,000/- x 4 = Rs.1,76,000/-
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.23,51,000/-

The claimants are, therefore, held entitled to a total

compensation of Rs.23,51,000/- along with interest @ 9% per annum from the date of filing of claim petition till its actual realization.

With these modifications, the present appeal stands disposed of in above terms.

(MANJARI NEHRU KAUL)
JUDGE

April 18, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*