

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

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**FAO-6202-2019 (O&M)
Decided on : 30.03.2022**

Tata AIG General Insurance Company Limited

... Appellant(s)

Versus

Meera Devi and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Sachin Ohri, Advocate
for the appellant-Insurance Company.

Mr. Ashish Gupta, Advocate
for respondents No.1 to 3.

MANJARI NEHRU KAUL, J. (Oral)

The instant appeal has been preferred by the Insurance Company against the award dated 23.05.2019, passed by the learned Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'the Tribunal'), whereby, the compensation in the sum of Rs. 17,83,600/-, was awarded to the claimants/respondents No.1 to 3 i.e. mother, father and wife of the deceased Sanjay, who was 22 years of age at the time of accident in question.

A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 3 may be noticed. On 09.03.2018, Sanjay (since deceased) along with one Sri Chand was going to his shop on his motorcycle bearing registration No. RJ-02-BA7274, when at about 05:30 P.M. another motorcycle bearing registration No. RJ-02-ZS-0833 being driven rashly and negligently by respondent No.4 – Rajesh Kumar, came from the rear side and struck against the motorcycle of the deceased, as a result of which, the deceased sustained injuries and later on succumbed to

them. The Tribunal on the basis of the evidence led by the parties, assessed and awarded the following compensation in the sum of Rs.17,83,600/- to the claimants/respondents No.1 to 3:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly Income	Rs.8500/-
2	Future Prospects (40%) (8500 x 40/100)	Rs. 11,900 (8500 + 3400)
3	Annual Income	12x11,900 = Rs.1,42,800/-
4	Deduction 1/3	Rs.47,600/-
5	Annual Dependency	Rs.95,200/-
6	Multiplier	18
7	Total Dependency	Rs.95,200x18=Rs.17,13,600/-
8	Loss of Consortium (to claimant No.3 – wife)	40,000
9	Funeral Expenses	Rs.15,000/-
10	Loss of Estate	Rs.15,000/-
	Total Compensation	Rs.17,83,600/-

All the respondents were held jointly and severally liable to pay the amount of compensation along with 9% per annum interest from the date of filing the claim petition till payment.

Learned counsel for the appellant – Insurance Company has challenged the impugned award primarily on the quantum of compensation assessed by the learned Tribunal. It has been vehemently argued that the Tribunal wrongly assessed the income of the deceased in the sum of Rs.8500/- on the basis of the notification issued by the Government of Haryana for the relevant period with respect to the unskilled labourer, whereas, it should have been assessed as per the prescribed minimum wages notified by the State of Rajasthan for the relevant period, since admittedly the accident in question had taken place at Alwar (Rajasthan) and not in

Haryana. Learned counsel submitted that as per the minimum wages

notified by the Govt. of Rajasthan for the relevant period, the income of an unskilled labourer for the relevant time was Rs. 5538/- p.m. Learned counsel thus submitted that the claimants who admittedly were residents of State of Rajasthan had chosen to file the claim petition under Section 166 of the Motor Vehicles Act, at Gurugram, for reasons but obvious since they were conscious that the minimum wages notified with respect to unskilled workers by the Government of Haryana, was much higher than the one prescribed by the Government of Rajasthan.

Learned counsel appearing for respondents No.1 to 3/claimants while opposing the prayer and submissions made by the counsel opposite, submitted that the amount awarded was just and in consonance with the settled law and hence, did not warrant any interference.

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

The Hon'ble Supreme Court in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270* 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 amounts 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 was also 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 and Rs. 44000/- for loss of consortium respectively.

The deceased was stated to be working as a 'Raj Mistri'. This Court is of the opinion that work of a Raj Mistri requires expertise in the field of construction and hence, he should be treated as a skilled worker. As per the notification of State of Rajasthan, where the accident in question took place, the minimum prescribed wages for a skilled worker for the relevant period was Rs. 6058/- p.m., however, this Court feels that it may be rounded off to Rs. 7000/-. This Court is thus of the opinion that the amount of compensation requires to be re-assessed and modified as as follows:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1.	Monthly Income	Rs.7000/-
2.	Annual Income	12x7000=Rs.84,000/-
3.	Future Prospects (40%)	Rs.84,000 x 40%=Rs.33,600/-
4.	Total Annual Income	Rs.1,17,600/-
5.	Deduction towards personal expenses (1/3 rd)	Rs.39,200/-
6.	Annual Dependency	Rs.78,400/-
7.	Multiplier	18
8.	Total Dependency	Rs.78,400 x 18 = Rs. 14,11,200/-
9.	Loss of consortium to parents and wife (filial and spousal)	Rs.44,000/- each i.e. Rs.1,32,000/-
10.	Funeral Expenses	Rs.16,500/-

11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.15,76,200/-

The claimants shall be entitled to interest at the rate of 9% per annum (as awarded by the Tribunal) on the entire amount, from the date of filing of the claim petition till realization.

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

(MANJARI NEHRU KAUL)
JUDGE

March 30, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No