

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

**FAO No.539 of 2013 (O&M) and
XOBJC-61-CII-2013 &
CM-15617-CII-2013**

Date of decision: s07.01.2022

National Insurance Company Ltd.

...Appellant

Versus

Jaswinder Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Paul S. Saini, Advocate,
for the appellant-Insurance Company.

Mr. Munish Gupta, Advocate,
for respondents No.1 and 2/cross-objectors/claimants.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

CM-15617-CII-2013 in XOBJC-61-CII-2013

This is an application for condonation the delay of 52 days in re-filing the cross-objections.

For the reasons stated in the application, the same is allowed.
Delay stands condoned.

Main case& XOBC-61-CII-2013

Aggrieved with the award dated 05.11.2012 rendered by Motor Accidents Claims Tribunal, (Adhoc) Fast Track Court, Hoshiarpur, Insurance Company has preferred the instant appeal. The claimants have also filed cross-objections for enhancement of compensation.

2. Learned counsel for the appellant-Insurance Company submits that it is a case of contributory negligence on the part of the driver of the motor cycle as also the driver of the Tempo Traveller. However, the learned Tribunal completely ignored the factual position duly established on record

and held that the driver of the tempo traveller was solely responsible for causing the alleged accident.

3. On the other hand, learned counsel for the claimants/cross objectors submits that the cross-objections have been filed within limitation.

4. Since the issue of contributory negligence has already been dealt with in *FAO No. 2218 of 2012* decided on *01.09.2021* titled as “*Sona Devi and others Vs. Ramesh Kumar and others*”, the present appeal is dismissed in terms of order dated 01.09.2021 passed in FAO No. 2218 of 2012, *ibid*.

5. With regard to quantum of compensation, having addressed the rival contentions for some time, both the learned counsels are now *ad idem* that the award under challenge be modified in view of the judgment rendered by Apex Court in case titled as “*National Insurance Company Limited Vs. Pranay Sethi 2017 (4) PLR 693, SC*” as below:

Deceased	Gurinder Pal Singh
Date of accident/death	17.09.2011
Age	18 years
Income of the deceased	Rs. 3,000/-
Future Prospects	40% Rs. 1,200/-
Total Monthly income	Rs.4,200/-
Deduction for personal expenses	50% Rs. 2,100/-
Multiplier	18
Dependency	2,100X12X18=4,53,600/-
Loss of Estate	Rs.15,000/-
Funeral expenses and Trans.	Rs.15,000/-
Total compensation	Rs. 4, 83,600/-
Amount awarded by the Tribunal	Rs.4,50,000/-
Enhanced amount to be paid	Rs.33,600/-

6 In the premise, on the joint consent of learned counsels, the impugned award is modified to that extent as computed aforesaid.

7. Accordingly, remittance be made in terms of the above computation. After adjustment of amount, if any already paid, balance of enhanced amount be remitted within 30 days from today.
8. Main appeal and cross objections are disposed of in above terms.
9. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

07.01.2022
Vandana/vs

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No