

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

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FAO-3415-2015 (O&M)
Date of decision: 13.09.2022

UNITED INDIA INSULRANCE COMPANY LTD

....Petitioner

Versus

TARAVATI AND ORS

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ram Avtar, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondent Nos.1 and 2.

None for respondent Nos.3 and 4.

MANJARI NEHRU KAUL. J. (ORAL)

Insurance Company is impugning the award passed by learned Motor Accident Claims Tribunal, SAS Nagar (hereinafter referred to as 'Tribunal') wherein the following compensation was awarded to the claimants/respondents, who are parents of Pooja @ Vanita (hereinafter referred to as deceased):-

Sr. No.	Heads	Amount
1.	Assessed monthly income	Rs.7,000/-
2.	50% (i) above to be increased in the name of future prospects	Rs.7,000+Rs.3,500= Rs.10,500/-
3.	50% of (ii) above deducted as personal expenses of deceased	Rs.10,500-Rs5250= Rs.5250/-
4.	Compensation after multiplier of '18' is applied	Rs.5,250 x 12 x 18 = Rs.11,34,000/-
5.	Loss of love and affection to claimants No.(1& 2)	Rs.50,000/- each i.e. Rs.1,00,000/-
6.	Funeral expenses	Rs.25,000/-
	Total compensation awarded	Rs.12,59,000/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 6% per annum, from the date of filing of the claim petition till actual payment.

Learned counsel appearing for the Insurance Company has challenged the impugned award on the following two grounds:-

(i) Quantum

(ii) The driver of the offending vehicle i.e. truck bearing registration No. HR-38-H-2615 was not holding a valid and effective driving licence at the time of the accident, which took place on 30.01.2013, when the deceased while walking on the extreme side of the road was hit from behind by the offending vehicle which thereafter ran over her leading to her death.

Learned counsel for the Insurance Company while drawing the attention of this Court to the compensation awarded submitted that the compensation was not in consonance with the settled ratio of law as laid down in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121 and Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333.* He submitted that the deceased was a 21 year old girl, however, no cogent evidence had been led by the claimants in support of her income yet the Tribunal erred in awarding her 50% compensation towards future prospects. It was further submitted that despite cogent evidence having been led before the Tribunal that the driving licence Ex.R1 of the driver of the offending vehicle was not genuine, the Tribunal failed to take the same into account and fastened the entire liability on the Insurance Company to indemnify the insured. It was submitted that Beant Singh, Clerk in the DTO office, Hoshiarpur while

stepping into the witness box before the Tribunal categorically stated that driving licence bearing No. PH-07-20100084385 had been initially issued in the name of Nirmal Singh S/o Kartar Singh R/o Gondpur, District Hoshiarpur and thereafter issued in the name of Mohinder Singh S/o Kundan Singh R/o Village Badhanpur, Patiala and was valid from 06.04.2016 to 06.04.2018. Hence, it was evident that the driving licence, which the driver was holding was in fact a fake licence.

Per contra, learned counsel appearing for the claimants opposed the submissions and prayer made by the counsel opposite and submitted that the compensation awarded was just and adequate, which did not warrant any interference of this Court. It was submitted that the deceased was working in ASR factory Derabassi and drawing a salary in the sum of Rs.7,000/- which fact was duly corroborated by PW9-Varsha, who was a colleague of the deceased.

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

Insofar as the submissions made by the learned counsel for the appellant qua the driving licence of the driver of the offending vehicle being fake is concerned, the same is devoid of merit. This Court concurs with the findings recorded by the Court below that it was evidently on account of a clerical error of DTO office that name of some other person had been wrongly mentioned in the driving licence (Ex.R-1) and the said fact had to be appreciated from the fact that the dealing Clerk of DTO while appearing as a witness categorically deposed that driving licence (Ex.R-1) was in the name of Mohinder Singh i.e. Respondent No.3 and was valid.

The Hon'ble Supreme Court in ***Pranay Sethi's case*** (*supra*) has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral

expenses in addition to Rs.40,000/- each for loss of consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement *qua* the above-mentioned conventional heads as per the ratio laid down in *Pranay Sethi's case (supra)*. Hence, the amount of compensation under the convention heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are parents of the deceased, are entitled to Rs.44,000/- each, for loss of filial consortium.

However, the future prospects granted by the Tribunal to the extent of 50% are not in consonance with the settled law. The claimants would be entitled to 40% future prospects as no evidence was led *qua* the deceased being a permanently salaried person.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.7,000/-
2.	Annual Income	Rs.7,000/- x 12 = Rs.84,000/-
3.	Future prospects (40%)	Rs.84,000/- x 40% = Rs.33,600/-
4.	Total annual income	Rs.84,000/- + Rs.33,600/- = Rs.1,17,600/-
5.	Deductions towards personal expenses (1/2)	Rs.1,17,600/- / 2 = Rs.58,800/-
6.	Loss of annual future earnings	Rs.1,17,600/- - Rs.58,800/- = Rs.58,800/-
7.	Multiplier	18
8.	Loss of future earnings	Rs.58,800/- x 18 = Rs.10,58,400
9.	Loss of consortium	Rs.44,000/- x 2 = Rs.88,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.11,79,400 /-

The claimants are, therefore, held entitled to a total sum of Rs.11,79,400/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization, which would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

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

(MANJARI NEHRU KAUL)
JUDGE

September 13, 2022

S.Sharma(syr)

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