

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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FAO No. 2958 of 2017 (O&M)
Date of decision: 02.02.2023

Oriental Insurance Company Limited

.....Appellant

Versus

Satto Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. S.S.Sidhu, Advocate for the appellant.

Ms. Aakanksha Sawhney, Legal Aid Counsel
for respondents No. 1 to 4.

Mr. Rajbir Singh, AAG, Haryana for respondent No. 6.

RAJBIR SEHRAWAT, J.

The present appeal has been filed by the appellant challenging the award dated 14.03.2017 passed by the Motor Accident Claims Tribunal, Jhajjar (for short, the Tribunal), vide which the respondents were awarded an amount of Rs. 15,02,000/- (Rs. Fifteen lakh and two thousand only) with interest @ 7 ½ % per annum on account of death of Ajit in the Motor Vehicle Accident.

For the purpose of the present appeal, the parties would be referred to as they were described in the original claim petition filed before the Tribunal.

The brief facts, as given in the claim petition, are that on 08.07.2016, Ajit (since deceased) was on his way from village Gorla to Power Plant, Jharli (Jhajjar) on scooter bearing registration No. HR-51R-

3331. At about 9.30/10.00 A.M, when he reached near village Gorla turn on Matanhail-Bahu Jholri road at village Khanpur, a Haryana Roadways Bus bearing registration No. HR-63B-7109 being driven by respondent No. 5 in a rash and negligent manner at a very high speed, came from the side of Village Matanhail and struck against the scooty of Ajit. As a result, Ajit fell down on the road and sustained multiple grievous injuries. The accident was witnessed by one Om Parkash. Ajit died on the spot on account of the injuries suffered by him. Accordingly, FIR No. 154 dated 08.07.2016 was also registered under Sections 279 and 304-A IPC at Police Station Salhawas. With these facts, the widow and minor children of deceased Ajit filed claim petition asserting therein that Ajit was about 27 ½ years of age. He was doing labour work and was earning Rs.15,000/- per month. Accordingly, the compensation was claimed by the claimant.

The main argument raised by learned counsel for the appellant is that while calculating the compensation, the Tribunal has granted compensation on account of loss of future prospects at the rate of 50 % of the assessed income, whereas, as per the law laid down by the Hon'ble the Supreme Court in the case of *National Insurance Company Limited Versus Pranay Sethi and others, (2017) 16 SCC 680*, the said benefit should have been awarded only at the rate of 40% of the assessed income. Hence, the compensation deserves to be decreased. Another ancillary argument, which is also submitted by the learned counsel for the appellant based upon the same judgment of the Hon'ble Supreme Court is that, the consortium has wrongly been awarded by the Tribunal at Rs. 1 lac, which is required to be awarded at Rs. 40,000/-. Therefore, consortium has also been wrongly awarded and the same deserves to be dropped by applying with the

judgment of the Hon'ble Supreme Court. The counsel has further submitted that an amount of Rs. 25,000/- has been awarded for funeral expenses, which also deserves to be reduced to Rs. 15,000/-.

On the other hand, learned counsel for the respondent-claimant has not been able to dispute the proposition laid down by the Hon'ble Supreme Court with respect to grant of future prospects. However, relying upon the same judgment of Hon’ble the Supreme Court in the case of **Pranay Sethi** (supra), learned counsel for the respondent-claimant has submitted that the consortium has to be awarded to each of the claimants at the rate of Rs. 40,000/-.

Accordingly, the award passed by the Tribunal is modified so as to bring it with the tune of the judgment delivered by the Hon’ble the Supreme Court in the case of **Pranay Sethi** (supra) and the compensation awarded by the Tribunal is modified as given below.

Sr. No.	Head	Amount assessed
1	Income	Rs.6,000/- per month
2	Future prospects @ 40%	40% of Rs. 6000/- = Rs. 2400/-
3	Deduction for personal expenses @ 1/4 th	1/4 th of Rs. 8400= 6300
4	Multiplier @ 17 Loss of dependency	Rs. 6300/- x 12 x 17 = Rs. 12,85,200/-
5	Consortium to widow	Rs. 40,000/-
6	Funeral expenses	Rs. 15,000/-
7	Loss of estate	Rs. 15,000/-
8	Filial consortium to 3 children @ Rs. 40,000/- each	Rs. 1,20,000/-
	Total	Rs. 14,75,200/-

The present appeal is partly allowed to the extent mentioned above. It has been stated by learned counsel for the appellant that the

amount of award has not been fully paid to the claimants. In view of this, it is directed that amount ascertained by this Court be paid to the claimants. However, if the amount of award passed by the Tribunal is already paid by the respondents then since the difference of the amount is insignificant as compared to effort to be made for recovery, therefore, it is ordered that no recovery shall be made from the claimant qua any excess amount paid to them.

All pending miscellaneous application(s) stands disposed of as such.

02.02.2023

Rajeev (rvs)

(RAJBIR SEHRAWAT)
JUDGE

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