

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3871-2017 (O&M)
Date of decision: 17.02.2023

National Insurance Co. Ltd.

...Appellant(s)

Vs.

Pinky & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Satpal Dhamija, Advocate for the appellant.

Mr. H.S. Rakhra, Advocate for respondents.

NIDHI GUPTA, J.

Present appeal has been filed by the appellant-Insurance Company against Award dated 02.01.2017 passed by Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as "the learned Tribunal") whereby compensation of Rs.16,76,400/- has been awarded in MAC Case No.165 of 2016 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The claimants/respondents No.1 to 3 herein are wife and minor children of deceased-Sonu Singh.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Sonu Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 24.06.2016 due to the rash and negligent driving of truck bearing registration No.PB-10-FF-4176 (hereinafter referred to as "the offending vehicle") being driven by respondent No.4/driver, owned by respondent No.5 and insured by appellant herein. Learned Tribunal awarded

compensation as noted above along with interest @ 7.5% per annum from the date of filing the petition till its actual realization. Respondents were held jointly and severally liable to pay the compensation.

3. Learned counsel for the appellant assails the impugned Award only on ground of quantum submitting that;

a) compensation as awarded to the claimants is on higher side;

b) admittedly the deceased was a labourer at the time of death and therefore, learned Tribunal has erred in adding future prospects at the rate of 50% whereas the same ought to have been 40%;

c) amounts granted under conventional heads are also on higher side;

d) each of the claimants has been awarded Rs.1,00,000/- towards consortium whereas it should be Rs.40,000/- each.

4. Learned counsel for respondents submits that the Award is just and fair, and the present Appeal deserves to be dismissed.

5. I have heard learned counsel for the parties.

6. I find merit in the submissions advanced on behalf of the appellant—Insurance Company, which are in consonance with the law laid down by the Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104; and National Insurance Company Limited Vs. Pranay Sethi and others (2017) 16 SCC**

680. Accordingly, in view of the enunciated legal position, present appeal is allowed, and compensation awarded to the claimants is re-worked as follows:-

Head	Awarded by MACT	Ought to be
Income	Rs.6,600/-	Rs.6,600/-
Future prospects	50%	40%
Multiplier	17	17
Deductions	2/3 rd	2/3 rd
Conventional heads	Rs.3,30,000/-	Rs.1,50,000/-
Total	Rs.16,76,400/-	Rs.14,06,640/-

7. Perusal of order sheets further shows that vide order dated 02.06.2017, this Court had stayed recovery of compensation amount beyond Rs. 12.50 lacs.

8. Ratio of apportionment and manner of disbursement of compensation amount amongst the claimants as determined by the learned Tribunal is maintained. Present appeal stands disposed of in above terms.

9. Pending application(s) if any also stand(s) disposed of.

17.02.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No