

R-888

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

**FAO-4497-2017 (O&M) WITH
XOBJC-108-CII-2018 (O&M)
Date of decision : 06.02.2023**

Oriental Insurance Company Ltd.

... Appellant(s)

Versus

Raj Bala and others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mayank Mathur, Advocate for
Mr. Ashok Mathur, Advocate for the appellant.

Mr. Harish Bhardwaj, Advocate
for respondent Nos.1 to 4/cross-objectors.

ALKA SARIN, J. (ORAL)

The present order shall dispose off appeal (**FAO-4497-2017**) filed by the appellant-Insurance Company and the cross-objections (**XOBJC-108-CII-2018**) filed by the claimant-respondent Nos.1 to 4 impugning the award dated 09.01.2017 passed by the Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'Tribunal'). The issue in the present case is only qua the quantum of compensation awarded. Since the factum of the accident is not in dispute, the facts are not being adverted to.

The appellant-Insurance Company is aggrieved by the fact that an addition of 30% has been made towards future prospects whereas as per the judgment of the Supreme Court in the case of **National Insurance**

Company Limited Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680], an addition of 25% ought to have been made towards future prospects. Further, the grievance of the Insurance Company is that an amount in excess has been paid under the head consortium and as per the judgments of the Hon'ble Supreme Court in the cases of **Magma General Insurance Co. Ltd. V. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors Vs. Chola mandalam MS General Ins. Co. Ltd. [2021 ACJ 2685]**, an amount of Rs.44,000/- ought to have been paid to each of the claimants.

The claimant-respondent Nos.1 to 4/cross-objectors are aggrieved by the fact that though the income has been calculated as per the minimum wage, however, the minimum wage at the relevant time of the accident i.e. 25.09.2016 was Rs.8,070/- per month, however, the income of the deceased was assessed as Rs.6,000/- per month by the Tribunal. Further, the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the parties are *ad idem* that a multiplier of '15' and a deduction of 1/4th have rightly been applied by the Tribunal. Learned counsel for the claimant-respondent Nos.1 to 4/cross-objectors is not in a position to dispute that as per the law laid down in the case of **Pranay Sethi** (supra), an addition of 25% needs to be made towards future prospects.

Heard.

In the present case, the Tribunal has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.6000/-
2	Annual income	[6000 x 12] =Rs.72000/-
3	Deduction 1/4th	[72000-18000] =Rs.54000/-
4	Future prospects @ 30%	[54000+16200] = Rs.70200/-
5	Multiplier of 15	[70200 x 15] = Rs.1053000/-
6	Loss of consortium to widow	Rs.100000/-
7	Funeral expenses	Rs.27000/-
8	Loss of care and guidance to children	Rs.100000/-
9	Total Compensation	Rs.12,80,000/-
	Interest	7.5% per annum

The deceased at the time of the accident was 40 years of age.

The minimum wage in the State of Haryana for an unskilled worker at the relevant time of the accident was Rs.8070/- per month, hence, the income of the deceased was wrongly assessed as Rs.6,000/- per month. Accordingly, the income of the deceased is assessed as Rs.8070/- per month. A multiplier of ‘15’ and a deduction of 1/4th have rightly been applied by the Tribunal and the same are maintained. Future prospects ought to have been granted @ 25% as per the law laid down in the case of **Pranay Sethi** (supra) and further, under the conventional heads, the claimant-respondent Nos.1 to 4/cross-objectors would be entitled to Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral expenses. As per the law laid down in the cases of **Magma General Insurance Co. Ltd.** (supra) and **N. Jayasree** (supra), the claimants-respondent Nos.1 to 4/cross-objectors would also be entitled to Rs.44,000/- each under the head consortium. Accordingly, the re-worked out compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.8070/-
2	Annual income	[8070 x 12] =Rs.96840/-
3	Deduction 1/4 th	[96840-24210] =Rs.72630/-
4	Future prospects @ 25%	[72630+18158] = Rs.90788/-
5	Multiplier of 15	[90788 x 15] = Rs.1361820/-
6	Loss of estate	Rs.16,500/-
7	Funeral expenses	Rs.16,500/-
8	Loss of Consortium : (i) Parental (ii) Spousal's	Rs.132000/- (44000 x 3) Rs.44000/- (Total Rs.1,76,000/-)
9	Total Compensation	Rs.15,70,820/-
	Amount Awarded by the Tribunal	Rs.12,80,000/-
	Enhanced amount	Rs.2,90,820/-

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of the filing of the claim petition till realization. The amount of compensation be apportioned equally amongst the claimant-respondent Nos.1 to 4/cross-objectors.

In view of the above discussion, the award passed by the Tribunal is modified accordingly. The present appeal as well as cross-objections are disposed off in the above terms. Pending applications, if any, also stand disposed off.

06.02.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO