



FAO-1516-2017 (O&M)

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253 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1516-2017 (O&M)

Date of decision: 07.11.2024

Oriental Insurance Co.Ltd.

....Appellant

Versus

Sushila Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ankur Gupta, Advocate for the appellant

Ms. Ekta Thakur, Advocate for the respondents

Mr. Munish Kapila, Advocate for respondent no.6

ANIL KSHETARPAL, J (Oral)

1. In this appeal the only dispute between the parties is with regard to quantum of compensation. The correctness of finding with regard to the involvement of offending vehicle and with respect to rash and negligent driving of the vehicle are not in dispute.

2. Learned counsel representing the appellant submits that the Tribunal has erred in increasing income by 50% on account of future prospects whereas as per judgment passed by the Five Judge Bench in '*National Insurance Company Ltd. vs. Pranay Sethi and other*' 2017 (10) SCC 450, the future income is liable to be increased by 40%. This fact is not disputed by the learned counsel representing the respondents. However, she submits that the figure of minimum wages at the rate of Rs.7,000/- per month is required to be revised to Rs.7458/- per month.



She further submits that respondent no.1 and 2 (claimants) are also entitled to loss of consortium at the rate of Rs.48,000/- per month.

3. Learned counsel representing the appellant submits that no cross appeal has been filed by the claimants.

4. While contesting the appeal filed for reduction of compensation, the respondents are entitled to pray for assessment of appropriate compensation. Order XLI Rule 33 of the Code of Civil Procedure, 1908, enables the Appellate Court to decide the appeal in accordance with law irrespective of the fact that cross appeal or cross objections have not been filed.

5. Keeping in view the aforesaid facts, the amount of compensation is revised as under:-

Heads	Compensation awarded by the Tribunal	Compensation awarded by the High Court
Income	Monthly : 7000/- Annual : 84,000/-	Monthly : 7458/- Annual : 89,496/-
Deduction	1/2	1/2
Future prospects	50%	40%
Multiplier	18	18
Loss of estate	0	18,000/- (including 10% increase after every 3 years)
Funeral expenses	25,000/-	18,000/- (including 10% increase after every 3 years)
Loss of consortium	50,000/-	Consortium to respondent no.1 and 2 Rs.48,000/- x 2 = 96,000/- (including 10% increase every 3 year)
Medical expenses	14,209/-	14,209/-
Total compensation	16,51,209/-	12,73,859/-



6. It has been brought to the notice of the Court that an amount of Rs.8,00,000/- has already been paid to the claimants. The remaining amount shall be payable alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of its realisation.

7. Disposed of.

8. All the pending miscellaneous applications, if any, are also disposed of.

07.11.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE