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

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**IOIN-1-FAO No. 2403 of 2015 &
FAO No. 2403 of 2015 (O&M)
DATE OF DECISION :- 27.08.2025**

Chola Mandalam MS General Insurance Co. Ltd. ...Appellant

Versus

Ved Ram and others ...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Rajneesh Malhotra, Advocate for the appellant.
(Through V.C.)

Ms. Komal Rana, Advocate for
Mr. Abhimanyu Singh, Advocate for respondents No. 1 and 2.

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VIRINDER AGGARWAL, J. (Oral)

1. Claimants being parents of deceased Bhupender filed claim petition seeking compensation on account of death of Bhupender in a Motor Vehicle Accident on 18.09.2013 due to rash and negligent driving of respondent No. 1 of Truck bearing No. RJ-01-GB-0662 owned by respondent No. 2 insured with appellant-respondent No. 3. Claimants claim that deceased was 21 years of age earning Rs.10,000/- per month from labour work and claim compensation of Rs.15 lakh along with 18% per annum interest. Respondents No. 1 and 2 failed to appear and were proceeded against ex-parte whereas appellant-respondent No. 3 contested the claim petition raising various legal pleas with regard to non-compliance of the provisions of Section 134 (C) and that vehicle was not driven by respondent No. 1 and respondent No. 1 was not having a valid licence and

respondent No. 2 was not having route permit, fitness certificate so terms and conditions of the Insurance Company Policy were violated.

2. From the pleadings of the parties, the following issues were framed :-

> 1. Whether the accident in question was caused by respondent no.1 while driving vehicle bearing registration No. RJ-01-GB-0662 in a rash and negligent manner resulting into death of Bhupender as alleged? OPP
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> 2. If issue no.1 is proved, whether petitioners are entitled to any compensation and if so to what effect and from whom? OPP.
>
> 3. Whether respondent no.3 is not liable to make payment of any compensation on account of alleged violation of terms and conditions of insurance policy? OPR(3).
>
> 4. Relief.

3. After affording opportunity to both the parties to lead evidence, the learned Tribunal allowed the claim petition and granted compensation to the tune of Rs.9,90,000/- along with 7.5% per annum interest from the date of filing of petition till realization .

4. Aggrieved by the Award so passed, appellant-Insurance Company filed the appeal.

5. Notice of motion was issued to respondent-claimants, who appeared through counsel.

6. I have heard learned counsel for the parties besides going through the record.

7. Learned counsel for the appellant has assailed the Award on the sole ground that future prospects were granted by the learned Tribunal at the rate of 50% whereas as per the Constitutional Bench judgment of Supreme Court '***National Insurance Company Limited Versus Pranay Sethi and***

Others 2017 (4) R.C.R. (Civil) 1009' the future prospects are required to be awarded at the rate of 40%. Learned counsel for respondent-claimants submitted that there is no illegality and infirmity in the Award so passed by the Tribunal. It is the case of the respondent-claimants that Bhupender was doing the labour work so he was not a permanent employee and in view of para No. 61 (iv) of "***National Insurance Company Limited Versus Pranay Sethi and Others"*** (supra) in the case of deceased being self employed or on a fixed salary an addition of 40% of the established income should be warranted where the deceased was below the age of 40 years. Whereas the learned Tribunal granted future prospects at the rate of 50% of the income of the of the deceased from the manual labour. Findings of the Tribunal granting 50% of wages on account of future prospects in view of the judgment of Apex Court in '***Rajesh Versus Rajbir Singh 2013 (9) SCC 54'*** is no longer sustainable in view of the subsequent Constitutional Bench judgdment of Supreme Court '***National Insurance Company Limited Versus Pranay Sethi and Others*** (supra) wherein future prospects are required to be granted at the rate of 40% of the wages of the deceased Bhupender. So award passed by the learned Tribunal may be modified accordingly.

8. After calculating the income at the rate of Rs.5,340/- per month and adding 40% of future prospects the monthly income comes to Rs.7,476/-rounded off to Rs.7,500/- and after deducting 50% of the income on self consumption and after applying multiplier of 18 loss of dependency comes to Rs.8,10,000/- whereas the learned Tribunal has granted compensation of Rs.8,65,000/- on account of loss of dependency which is reduced to Rs.8,10,000/-. So the total compensation comes out to Rs.9,35,000/- (90,000-55,000) and the appeal of the appellant is party

allowed and compensation amount is reduced from Rs.9,90,000/- to 9,35,000/- and all other terms and conditions of the Awarded would remain the same.

9. Since the main appeal stands decided, the miscellaneous application(s), if any, stand disposed of accordingly.

(VIRINDER AGGARWAL)
JUDGE

27.08.2025
P.Singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No