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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-857-2015 (O&M)
XOBJC-143-CII-2015 (O&M)
Date of Decision : 06.03.2025

National Insurance Co. Ltd. ... Appellant(s)

Versus

Rekha & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. R.K. Sharma, Advocate
for respondent Nos.1 to 5/cross-objectors.

ALKA SARIN, J. (Oral)

1. The present order shall dispose off the appeal (**FAO-857-2015**) filed by the appellant-Insurance Company and the cross-objections (**XOBJC-143-CII-2015**) filed by the claimant-respondent Nos.1 to 5 aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'Tribunal') in a motor vehicle accident which occurred on 30.01.2014. The parties are being referred to as Insurance Company and claimants for the sake of clarity.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹6,000/-
2	Future prospects 50%	[₹6,000 + 3,000] = ₹9,000/-

3	Deduction 1/4th	[₹9,000 – 2,250] = ₹6,750/-
4	Annual income by multiplier of 17	[₹6,750 x 12 x 17] = ₹13,77,000/-
5	Funeral expenses	₹25,000/-
6	Loss of consortium	₹1,00,000/-
7	Love and affection	₹1,00,000/-
	Total Compensation	**₹16,02,000/-**
	Interest	**7.5% per annum**

4. Learned counsel for the Insurance Company would contend that the income of the deceased as assessed by the Tribunal is on the higher side. It is further the contention of the learned counsel for the Insurance Company that an addition of 50% towards future prospects has wrongly been made by the Tribunal which ought to have been 40%. The learned counsel for the Insurance Company would further contend that the amounts awarded towards funeral expenses, loss of consortium as well as love and affection are also on the higher side.

5. Learned counsel for the claimants has not laid any challenge to the future prospects @ 50%, deduction as 1/4th as well as multiplier of '17'. However, he has contended that the Tribunal has erred in taking the income of the deceased as ₹6,000/- notionally by treating him as an unskilled worker inasmuch as the deceased was a professional driver and his driving licence was also proved on record as Ex.P7 and, hence, his income ought to have been assessed as per the minimum wages of a skilled worker which were ₹6,289/- per month at the time of the accident. It is further the contention of the learned counsel that the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are on the lower side. In support of his contentions, he has relied upon the judgments of the Hon'ble

Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

6. I have heard the learned counsel for the parties.

7. In the present case, the Tribunal has rightly applied the multiplier of '17' as well as deduction as 1/4th. However, the Tribunal has erred in assessing the income of the deceased as ₹6,000/- per month by treating him as an unskilled worker inasmuch as the widow of the deceased stepped into the witness box as PW1 and has categorically testified that the deceased was a driver by profession and she also proved on record the driving licence of the deceased as Ex.P7. A perusal of the Driving Licence (Ex.P7) reveals that the deceased was possessing a driving licence to drive a Light Motor Vehicle. During the cross-examination of PW1, nothing could be elicited to the effect that the deceased was not a professional driver or that he was not possessing a driving licence to drive a Light Transport Vehicle. In view thereof, this Court deems it appropriate to assess the income of the deceased by treating him as a skilled worker as ₹6,289/- per month i.e. as per the minimum wages prevailing at the time of the accident. In the present case, the Tribunal has wrongly made an addition of 50% towards future prospects which ought to have been 40% as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra). Further, the amounts awarded under the conventional heads and under the head 'loss of consortium' are not as per the law laid down by the Hon'ble Supreme Court

in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra) and, hence, the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants (widow, two children and parents of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	**Monthly Income**	₹6,289/-
2	**Annual Income**	₹75,468/- [₹6,289 x 12]
3	**Deduction 1/4th**	₹56,601/- [₹75,468 – 18,867]
4	**Future Prospects - 40%**	₹79,242/- [₹56,601 + 22,641]
5	**Multiplier - 17**	₹13,47,114/- [₹79,242 x 17]
6	**Loss of estate**	₹18,000/-
7	**Funeral expenses**	₹18,000/-
8	**Loss of consortium** (i) Parental [₹48,000/- x 2] (ii) Filial [₹48,000/- x 2] (iii) Spousal's	 ₹96,000/- ₹96,000/- ₹48,000/- (Total ₹2,40,000/-)
	Total Compensation	**₹16,23,114/-**

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimants as directed by the Tribunal.

11. In view of the above discussion, the appeal (**FAO-857-2015**) filed by the Insurance Company as well as the cross-objections (**XOBJC-143-CII-2015**) filed by the claimants are disposed off and accordingly the impugned award passed by the Tribunal stands modified to the above extent. Pending applications, if any, also stand disposed off.

06.03.2025 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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