261/1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2025:PHHC:109294

Reserved on: 07.08.2025
Date of pronouncement: 20.08.2025

FAO-2701-2017 (O&M)
& XOBJC-180-CII-2017

NATIONAL INSURANCE COMPANY LTD
... APPELLANTS

VERSUS

DASSO DEVI @ DESA AND OTHERS ... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE PARMOD GOYAL

Present:- Mr. R.C.Kapoor, Advocate for the appellant.

Mr. Sandeep Kotla, Advocate for the cross-objectors/ respondents No.1 to 4.

PARMOD GOYAL, J.

Appellant-Insurance Company has preferred the present appeal being aggrieved by the award of compensation passed by learned Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') amounting to Rs. 11 Lakhs to claimants-respondents-Dasso Devi @ Desa and another. The claimants have preferred cross-objections for enhancement of compensation.

2. It is the case of Insurance Company that learned Tribunal has erred in determining the income of the deceased by applying dependency, future prospects and amount on account of loss of consortium wrongly. It is the claim of Insurance Company that the amount awarded to claimants is

highly excessive.

3. It is the case of claimants that deceased had died on 11.09.2015 and was holding diploma in education and was imparting tuitions to students of middle and higher standard and earning Rs. 20,000/- p.m. In order to prove education of the deceased, claimants have placed reliance upon Ex.P6 – detailed marks certificate of Middle Standard, Ex.P7 – detailed marks of Secondary Examination, Ex.P8-detailed marks of Senior Secondary Certificate Examination, Ex. P9 to P12 – copies of detailed marks of Diploma in Education and Ex.P13 – copy of certificate Diploma in Education. However, to prove that deceased was earning Rs. 20,000/- per month and was imparting tuitions except for oral evidence, nothing was adduced before the learned Tribunal. Tribunal has therefore, rightly not taken income of the deceased to be Rs. 20,000/- per month.

4. Learned Tribunal, however, after considering respective contentions concluded the income of the deceased to be Rs.6000/- p.m, and added 50% to the said income as future prospects and deducted personal expenses to the extent of 50%. The deceased was 23 years of age on the date of accident and after applying multiplier of 18, compensation calculated was Rs.9,72,000/-. The Tribunal had further awarded Rs. 1 Lakh towards loss of love and affection, Rs.28,000/- towards funeral expenses. Accordingly, the total compensation of Rs.11,00,000/- was awarded.

5. Learned counsel for the appellant-Insurance Company has challenged above awarded amount and claimed that learned Tribunal has erred in taking salary of deceased as Rs.6000/- per month. Appellant has also challenged award of 50% towards future prospects and lumpsum

amount towards consortium. It is stated that even the compensation towards funeral expenses is on higher side.

6. Cross-objectors/claimants are also dissatisfied with the award and claimed that learned Tribunal has wrongly taken the salary of deceased as Rs.6000/-. The deceased was educated person holding diploma in education, aged 23 years. Therefore, minimum wages i.e. Rs.8797.95/- for a skilled person in 2015, when the deceased had died ought to have been taken. As per his date of birth, deceased was rightly held to be 23 of years at the time of his death. Learned Tribunal has rightly deducted 50% towards personal expenses keeping in view total number of dependants as well as the fact that deceased was unmarried at the time of his death. Deceased was also entitled to 40% towards future prospects. He accordingly, prayed for enhancement of compensation.

7. Admittedly, except for oral evidence that the deceased was earning Rs. 20,000/- while giving tuitions, no documentary evidence or material has been placed on record to prove the pleaded income of the deceased.

8. In the present case the learned Tribunal has erred in taking minimum income of deceased to be Rs.6000/- instead of minimum wages payable to a skilled worker as petitioner was holding Diploma in Education. In State of Haryana, as per Notification of Labour Department, the minimum wages for unskilled workers were Rs.8797.95/- p.m. in the year 2015 when the deceased had died. Accordingly, the monthly income of the deceased needs to be taken as Rs.8797.95 /- p.m.

9. I find merit in the contention raised on behalf of learned counsel

for the Insurance Company that funeral expenses needs to be awarded as per directions of Hon'ble Supreme Court of India in **National Insurance Company Ltd vs. Pranay Sethi and others, (2017) 4 RCR (Civil) 1009** wherein the issue with regard to awarding of amount under the conventional heads has been authoritatively decided, while observing as under :-

> "54. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/-loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.".

10. Therefore, Rs. 15,000/- is awarded towards funeral expenses instead of Rs. 28,000/- awarded by the learned Tribunal. The Tribunal has not awarded any amount towards loss of estate. Claimants are, therefore, entitled to Rs. 15,000/- towards loss of estate also. The Tribunal has

awarded Rs. 1 Lakh towards loss of love and affection to respondent No.1 which is on higher side as per the the judgement of ***Pranay Sethi*** (supra). Rs. 40,000/- needs to be paid to parents of deceased as consortium. Therefore, it is held that deceased was earning minimum Rs.8797.95/- p.m. which is taken as his income. Claimants are further entitled to 40% increase on account of future prospects over the monthly income and after deducting personal expenses to the extent of 50% and after applying multiplier of 18, claimants shall be entitled to following compensation:-

Income of deceased	Rs. 8,797.95/- per month (minimum wages for unskilled worker)	Rs. 8,797.95/- per month
Addition towards future prospects	40% (Rs.8,798/- + Rs.3,519/-)	Rs.12,317/- per month
Deduction on account of personal expenses of deceased	1/2 (Rs.12,317 - Rs.6,158)	Rs.6,158/- per month
Selection of multiplier	18	18
Loss of dependency	Rs.6158-income of claimant with future prospects x 12 months x 18 multiplier	Rs.13,30,128/-
Funeral expenses	Rs. 15,000/-	Rs. 15,000/-
Loss of estate	Rs. 15,000/-	Rs. 15,000/-
Loss of parental consortium	Rs.40,000/- x 2 each to Claimant no.1 and 2	Rs. 80,000/-
Total Compensation awarded to claimants		Rs. 14,40,128/-

in appeal		
Total compensation awarded by the Tribunal		Rs.11,00,000/-
Enhanced amount of compensation	**Rs.14,40,128 (awarded in appeal) – Rs.11,00,000 (awarded by Tribunal)**	**Rs. 3,40,128/-**

11. The argument raised on behalf of the Insurance Company that no interest is payable on future prospects is also devoid of merit. The argument that future prospects have not arisen and therefore, no interest is payable is fallacious. The dependency of a person is calculated at the time of disposal of claim petition though his right has accrued on the date of his death. If arguments raised on behalf of Insurance Company is accepted, then it would mean that even on dependency calculated after applying the multiplier, the interest would not be payable as income would accrue in future. It is worth noticing that the payment of interest from the date of filing of claim petition till date of realisation is not interest over amount which has accrued or which shall accrue in future. In fact, right to seek compensation arises in favour of dependants of deceased immediately after accident. Interest is being paid for delay in actual payment of compensation due to adjudicatory process before the Court as Insurance Company had denied claim of petition, for this claimants cannot be faulted. Interest is payable on the compensation which is determined for the adjudicatory period till actual payment and therefore, it has got no nexus with the amount accrued or accruable as being argued by learned counsel for Insurance Company. Therefore, interest on future prospects is also payable to the

claimants.

12. In view of the above discussion, both the appeals preferred by Insurance Company and cross-objections preferred by the claimants are disposed of. The claimants are entitled to enhanced compensation of Rs.3,40,128/- along with interest @ 7.5% per annum over and above the amount awarded by learned Tribunal. Enhanced compensation be paid as per award to the claimants in accordance with apportionment stated in the award. Pending miscellaneous application(s), if any, shall also stand disposed of.

(PARMOD GOYAL)
20.08.2025 **JUDGE**
Janki

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No