**(2021) 03 P&H CK 0471**

**In the Punjab And Haryana At Chandigarh**

**Case No :** First Appeal Order No. 3901 Of 2017 (O & M)

National Insurance Company Limited APPELLANT

Vs

Bholi Kaur And Others RESPONDENT

**Date of Decision :** 26-03-2021

**Acts Referred:**

**Citation :** (2021) 03 P&H CK 0471

**Hon'ble Judges :** Rajbir Sehrawat, J

**Bench :** Single Bench

**Advocate :** Paul S. Saini, Vipul Sharma, Ravinder Arora, Neeraj Khanna

**Final Decision :** Disposed Of

# Judgement

Rajbir Sehrawat, J

This appeal has been filed by the Insurance Company challenging the award dated 24.1.2017; passed by the Motor Accident Claims Tribunal, Chandigarh (in short 'the Tribunal'), in an accident case.

Brief facts, as involved in this case are that on 5.5.2016 Harpreet Singh; along with his father Sher Singh and uncle Harpreet Singh; came on his motor cycle to drop his father Sher Singh (deceased) at Chunni Kalan bus stand. When they reached at the bus stand, then at about 7:45 a.m., a bus of Ambala Bus Syndicate Company; bearing registration No. PB-12L-4502; came and stopped on the road at the bus stand. The passengers started boarding the bus. When Sher Singh was in the process of boarding the bus from front door; then the driver of the bus drove the bus suddenly. As a result, Sher Singh fell on the road and was ran over by left tyre of the said bus. In the accident, he received multiple injuries. From there, Sher Singh was taken to PGI, Chandigarh, where during treatment, he died on 5.5.2016. On account of this accidental death of Sher Singh, the claim petition was filed by the claimants asserting therein that deceased was of 57 years of age and working in Civil Hospital, Mohali, earning monthly salary of Rs.50,000/-. An amount of Rs. One lakh was spent on funeral expenses. Accordingly, an amount of Rs.50 lakhs was claimed in the claim petition.

The parties led their respective evidence. After appreciating the evidence on file, the Tribunal awarded an amount of Rs.33,71,400/- as compensation to the claimants along with interest @ 7.5% per annum; from the date of filing of the claim petition till realisation of the whole amount. Beside this, apportionment was also made amongst the claimants in the proportion specified in the award. Challenging the said award, the present appeal has been filed by the Insurance company.

It is submitted by the counsel for the appellant that the appellant is not disputing the income as such. However, the deceased was working in the Government office and he was of the age of 58 years and 5 months at the time of death. Therefore, he had only about one and a half year to retire. Therefore, the multiplier of '9' has wrongly been applied by the Tribunal. The multiplier should have been applied in a split format, one for the period during which the deceased could have remained in service; and then for the remaining period for which the multiplier was liable to be applied. Counsel has further submitted that the Tribunal has wrongly granted higher amount on account of loss of consortium, loss of love and affection and funeral expenses. A total of Rs.2.25 lakhs have been awarded on account of these conventional heads. Whereas, as has been held by the Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, (2017) 16 SCC 680, the claimants would have been entitled only to an amount of Rs.70,000/-. Hence, the award of the Tribunal deserves to be modified and the amount payable to the claimants is liable to be modified and reduced accordingly.

The counsel for the respondent/claimants has submitted that the Court has rightly applied the multiplier of '9'. Hon'ble Suprme Court in the case of Puttamma and others v. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443, has held that a split multiplier is not to be resorted to except where there is a positive and categoric evidence on the file for the application of the split multiplier. In the present case, the appellant-Insurance company has not led any evidence to make out a case of split multiplier. Hence, there is no need of reduction of multiplier as such. However, counsel for the respondents claimants has not been able to dispute the preposition of law as laid down in Pranay Sethi's case (supra) qua entitlement to compensation under the conventional heads.

Having heard the counsel for the parties, this Court does not find any substance in the argument of the counsel for the appellant qua application of split multiplier. No positive evidence has been led on file by the appellant/Insurance company justifying the application of split multiplier. There is no evidence led on file even to remotely suggest that the deceased would not have acquired any employment after his retirement or that he would not have earned anything from any vocation or profession, which he might have resorted to after his retirement. Hence, due to lack of evidence on file, this Court does not find any ground to interfere with the applicability of multiplier of '9', which otherwise is rightly applied as per the age of the deceased.

However, this Court finds substance in the argument of the counsel for the appellant qua reduction in compensation on account of conventional heads. As has been held by the Hon'ble Supreme Court in Pranay Sethi's case (supra), the claimants are entitled to an amount of Rs.70,000/- on account of conventional heads. Therefore, the amount of Rs.2.25 lakhs, which has been awarded by the Tribunal under conventional heads, is reduced to an amount of Rs.70,000/-. Hence, a reduction of Rs.1.55 lakhs in compensation is ordered qua the conventional heads.

In view of the above, the appeal filed by the Insurance company is partly allowed. The amount of compensation is reduced by an amount of Rs.1.55 lakhs. Let the remaining amount of compensation be deposited by the Insurance company with the Tribunal within a period of six weeks. After this amount is deposited with the Tribunal, the same shall be disbursed to the claimants, in accordance with law.

All the pending applications are disposed of accordingly.