



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>AO/167/2019</u> Oriental Insurance Company Ltd. --Petitioner Versus Rajvimal Dagar --Respondent <u>Hon'ble Alok Mahra, J.</u> Mr. Deepak Rawat, Advocate for the appellant. Mohd. Azim, Advocate for respondent nos.1 to 3. 2. The present Appeal from Order has been preferred by the appellant–Insurance Company assailing the judgment and award dated 04.01.2019, passed by the learned Motor Accident Claims Tribunal/ 2nd Additional District Judge, Kashipur, District Udham Singh Nagar, in M.A.C.P. No. 281 of 2016, whereby compensation of ₹64,60,360/-, along with interest @ 7.5% per annum, has been awarded in favour of the claimants on account of the death of Smt. Reeta Dagar in a motor vehicle accident. 3. The facts, as borne out from the record, are that on 10.06.2016, Smt. Reeta Dagar was travelling from Jaspur to Kashipur in a Tata Magic vehicle bearing Registration No. UK18-TA-0175. At about 09:30 a.m., when the said vehicle reached a point shortly before Police Post Shivrajpur on the Jaspur–Kashipur Road, a Zest car bearing Registration No. UP14-CM-4830, coming from the Kashipur side,



			allegedly being driven rashly and negligently, came onto the wrong side of the road and collided with the Tata Magic. As a result of the collision, the Tata Magic overturned. Smt. Reeta Dagar, who was seated on the side seat of the Tata Magic, sustained grievous injuries to her head and left leg. She was immediately taken to L.D. Bhatt Government Hospital, Kashipur, where the attending doctors declared her dead. 4. Learned counsel for the appellant-Insurance Company submits that the learned Tribunal has erred in determining the compensation payable to the claimants at ₹64,60,360/-, by taking the monthly income of the deceased as ₹35,751/-, whereas, according to the appellant, her monthly salary ought to have been assessed at ₹31,648/-, being the salary drawn by her during March and April, 2016. It is further contended that perks and allowances payable to an employee ought not to have been included while determining the income of the deceased for the purpose of calculating compensation. Learned counsel, however, does not dispute the factum of the accident or the death of the deceased in the said accident. It is submitted that the compensation awarded, together with interest @ 7.5% per annum, is excessive and requires reconsideration. On these grounds, learned counsel prays that the impugned judgment and award be suitably modified. 5. Per contra, learned counsel appearing for respondent nos. 1 to 3, the claimants, supports the impugned judgment and award and submits that the deceased was a Government employee serving as a Bal Vikas Adhikari and that the salary slips placed on record were duly
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		authenticated by the competent department. It is contended that the learned Tribunal has assessed the income of the deceased on the basis of the documentary evidence available on record and has correctly determined the compensation payable to the claimants. Learned counsel further submits that the Tribunal has duly applied the settled principles governing the addition of future prospects, as laid down by the Constitution Bench of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and Others, reported in (2017) 16 SCC 680. Accordingly, it is submitted that the impugned judgment and award do not warrant any interference by this Court. 6. This Court has considered the rival submissions advanced by learned counsel for the parties and has perused the impugned judgment and award, along with the material available on record. The principal contention raised by the appellant-Insurance Company concerns the determination of the monthly income of the deceased and the inclusion of allowances and other components of her salary for the purpose of computing compensation. In this regard, the income of the deceased is required to be assessed on the basis of the relevant documentary evidence, having due regard to the nature of the payments forming part of her remuneration and the settled principles governing the determination of just compensation. The Constitution Bench of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and Others (supra) has laid down the principles governing the determination of just compensation in motor accident claims, including the addition towards future prospects and the conventional
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			heads of compensation. The compensation awarded by the Tribunal is required to be examined in the light of the evidence on record and the aforesaid settled principles. 7. Upon consideration of the submissions advanced on behalf of the parties and the material available on record, this Court finds no sufficient ground to interfere with the impugned judgment and award. The appellant has not been able to establish any material illegality, perversity or infirmity in the assessment warranting interference by this Court in its appellate jurisdiction. Consequently, the challenge to the quantum of compensation does not merit acceptance. 8. Accordingly, the Appeal from Order fails and is dismissed. 9. The statutory amount, if deposited by the appellant at the time of filing the appeal, shall be remitted to the Tribunal concerned for adjustment towards the award amount. The balance amount, if any, shall be released in favour of the claimants as per the directions of the Tribunal. reframe legally, add something if required (Alok Mahra, J.) 26.10.2026 <i>Arpan</i>
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