

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

**FAO No.7892 of 2014 (O&M)
Date of Decision: January 15, 2018.**

HDFC ERGO General Insurance Company Limited

.....APPELLANT(s).

VERSUS

Dharam Raj and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjeev Goyal, Advocate with
Mr. Rajbir Singh, Advocate
for the appellant (s).

Ms. Navdeep Kaur, Advocate for
Mr. Keshav Pratap Singh, Advocate
for respondents No.1 to 3.

SURINDER GUPTA, J.

This is appeal filed by HDFC ERGO General Insurance Company Limited against the award dated 30.04.2014 passed by Motor Accident Claims Tribunal, Mewat (later referred to as 'the tribunal'), whereby claimants-respondents No.1 to 3 Dharam Raj, Krishan Kumar and Chet Ram were allowed compensation amounting to ₹6,01,000/- for the death of their father Puran in a motor vehicle accident with Dumper bearing registration No.HR-55J-2502 (later referred to as 'the offending vehicle'), which was insured with the appellant.

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being

skipped for the sake of brevity.

The tribunal computed the compensation as follows:-

(i)	Name of the deceased	Puran
(ii)	Age of the deceased	32 years (as mentioned in post-mortem report)
(iii)	Income of the deceased	₹4500/- p.m.
(iv)	Deduction towards personal expenses @ 1/3rd	₹4500-1500=₹3000 p.m. i.e. ₹36000 p.a.
(v)	Multiplier applied 16	₹36000X16 = ₹576000/-
(vi)	Funeral expenses	₹25000
<i>Total</i>		₹6,01,000/-

Learned counsel for the appellant has argued that deceased was not 32 years of age as his sons i.e. claimants Dharam Raj, Krishan Kumar and Chet Ram were aged 19 years, 17 years and 15 years respectively at the time of filing of the claim petition, which was filed in July, 2012. The accident took place on 31.03.2011. The tribunal has not looked into the aspect that if the age of the claimants be seen, it cannot be believed that deceased fathered a child at the age of 13/14 years. No documentary evidence regarding the age of deceased has come forth and the tribunal has relied on his age as mentioned in the post-mortem report without any corroborating evidence. The deceased was more than 40 years of age, as such, multiplier which could be applied in this case is 14 and not 16. The tribunal has allowed compensation of ₹25,000/- towards funeral expenses which as per observations in case of *National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009* can be allowed to the tune of ₹15,000/- only.

Learned counsel for respondents has argued that age of the deceased was rightly taken by the tribunal as mentioned in the post-mortem

report and the multiplier applied in this case is also correct. If the tribunal has allowed ₹25,000/- towards funeral expenses, it has not allowed any compensation towards loss of estate. It has also not made any addition in the income of the deceased towards future prospects. Though the respondents have not filed any cross-objections or cross-appeal, still this fact can be looked into while looking into quantum of compensation.

I find merits in the submission of learned counsel for the appellant to the extent that deceased was not 32 years of age as his son i.e. one of the claimants was 19 years of age at the time of filing of the petition and his age was 18 years at the time of death of his father in the year 2011. Even if, it be believed that deceased had married at the age of 21 years, his age cannot be assessed as less than 40 years at the time of accident. Though no documentary evidence has come on record regarding age of the deceased but in view of above fact, the age of the deceased can be safely taken as 40 years plus at the time of accident and multiplier attracted in this case as per observations in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121* is 14.

Despite the above, I find no reason to decrease the amount of compensation as the claimants are to be allowed reasonable amount of compensation to which they are entitled. The deceased was self employed as per the observations in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*, 40% addition in the income of the deceased is to be made while computing the amount of compensation. The claimants are also entitled to ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate. When all these amounts are computed,

these work out to be more than ₹6,01,000/- as awarded by the tribunal.

In view of my above discussion, I find no reason to reduce the amount of compensation awarded by the tribunal, even after accepting the contention of learned counsel for the appellant that the tribunal has wrongly taken the age of the deceased and consequently, wrongly applied multiplier.

Consequently, this appeal is dismissed leaving the parties to bear their own costs.

January 15, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***