

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

FAO No. 1741 of 2003 (O&M)

Date of Decision: November 17, 2017

Smt. Mamta Sangwan and ors.

...Appellants

Versus

Rajesh Kumar and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate for the appellants.

Mr. Aseem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate for
Insurance Company – respondent No.2.

HARINDER SINGH SIDHU, J.

Widow, minor son and mother of Rajiv Kumar alias Amit Kumar (deceased) are before this Court for enhancement of compensation on account of the death of Rajiv Kumar alias Amit Kumar in a vehicular accident case, which occurred on 04.12.2001 in the area of village Barana Tehsil and District Karnal. They were awarded compensation of Rs.3,32,000/- along with interest by Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal).

On the fateful day, Rajiv Kumar was going on a motorcycle bearing registration No.HR-7E-5492 from Tarawari to Kurukshetra. At about 6.30 PM, when he reached near village Barana Tehsil and District Karnal, a Canter Tata-407 bearing registration No.HR-37A-0145 came from the opposite direction, being driven in a rash and negligent manner by Rajesh Kumar, respondent No.1 and hit the motorcycle by coming on the

wrong side of the road. The injured Rajiv Kumar was taken to Civil Hospital, Nilokheri. However, he could not survive and succumbed to the injuries.

The claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988.

The deceased was cultivating and supervising his agricultural land measuring 36 Kanals. To determine the compensation, the Tribunal took the age of the deceased as 26 years, assessed his monthly income at Rs.2400/-, deducted 1/3rd towards his personal living expenses and applied the multiplier of 16. Besides this, amounts of Rs.15,000/- and Rs.10,000/- were awarded under the heads of 'loss of consortium' and 'expenses towards last rites'. In all, compensation of Rs.3,32,000/- (rounded off) along with interest was awarded to the appellants – claimants.

Feeling dissatisfied with the quantum of compensation, the claimants have filed the instant appeal.

The facts are not in dispute before this Court.

Learned Counsel for the claimants has argued that since the deceased was 26 years of age, multiplier of 17 was required to be applied and not 16, as done by the Tribunal. Besides this, he has also challenged the compensation awarded under other heads, the same being on the lower side. Reliance has been placed upon the judgment dated 31.10.2017 of the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others SLP (Civil) 25590 of 2014.**

Having heard learned counsel for the parties and in view of the

decision of Hon'ble the Supreme Court in ***Pranay Sethi's*** case (*supra*), the

claimants are held entitled to the following compensation:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	<i>Income (Rs.2400/- per month)</i>	<i>Rs.28,800/- per annum</i>
(ii)	<i>40% of above (i) to be added as future prospects (deceased aged 26 yrs.)</i>	<i>Rs.28800+11520 = 40320/-</i>
(iii)	<i>1/3rd of (ii) deducted as personal living expenses of the deceased (three dependents)</i>	<i>Rs.40320-13440 = 26880/- per annum</i>
(iv)	<i>Compensation after multiplier of 17 is applied</i>	<i>Rs.26880x17 = 4,56,960/-</i>
(v)	<i>Loss of Consortium (exclusively for the widow)</i>	<i>Rs.40,000/-</i>
(vi)	<i>Loss of Estate</i>	<i>Rs.15,000/-</i>
(vii)	<i>Funeral Expenses</i>	<i>Rs.15,000/-</i>
	<i>Total</i>	<i>Rs.5,26,960/-</i>

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.5,26,960, that is, Rs.1,94,960/- (526960-332000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

The compensation at Sr. No.(v), 'loss of consortium', be paid to the widow of the deceased. The remaining enhanced compensation along with interest be paid to the appellants in equal shares.

November 17, 2017

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No