

448

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5139-2011

Date of decision : 16.11.2017

Saroj Rani

... Appellant(s)

Versus

Gurpreet Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. P.S. Dhaliwal, Advocate
for the appellant.

Mr. Akshit Aggarwal, Advocate for
Mr. Sherry K. Singla, Advocate
for respondent No.1.

Mr. Amit Kundra, Advocate for
Mr. Rajesh Verma, Advocate
for respondent No.3/Insurance Company.

AMIT RAWAL, J. (ORAL)

The appellant-claimant No.1 is the mother of the deceased- Mahesh Kumar, who unfortunately died in a vehicular accident occurred on 29.08.2010. At the time of death of Mahesh Kumar, he was aged 23 years and allegedly to have been running a mobile repair shop at Barnala and earning ₹ 20,000/- per month.

As per the case set up by the claimant(s) in the claim petition, on 29.08.2010, the deceased along with his friend Varun Kumar Singla was coming back to Barnala after paying obeisance at Shiv Mandir at Ranike on motor cycle bearing No.PB-19-D-6222 being driven by him and at about 06.30 p.m., when they were on the main road at Sekha Chowk Barnala, then a motor cycle bearing No.PB-11AQ-3103 driven by respondent No.1, hit the motorcycle and as a result of which, the deceased Mahesh Kumar

succumbed to head injury and an FIR No.230 dated 31.08.2010, in this regard, was registered at police Station Barnala.

Learned counsel for the appellant-claimant(s) submits that the compensation to the tune of ₹ 4,19,000/- awarded by the learned Tribunal is on lower side as the assessment of income of the deceased @ ₹ 3,000/- per month, is too meagre. No compensation towards future prospects has been awarded, whereas an amount of ₹ 5,000/- towards funeral expenses is very less, thus, urges this Court for enhancement of compensation.

Learned counsel for respondent Nos.1 & 3 submits that there is no scope of enhancement of compensation as the compensation awarded is just and perfect. The claimant(s) have not been able place on record any direct and cogent evidence to prove the income of the deceased as ₹ 20,000/-, thus, urges this Court for dismissal of the appeal by upholding the award, under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a scope of enhancement as in the absence of direct and cogent evidence, having taken the income of the deceased as ₹ 3,000/- was not a correct appreciation of law as the minimum wages of a unskilled labourer at the relevant time was ₹ 4868/-.

Accordingly, I will take the income of the deceased as ₹ 4,900/- (rounded figure) and apply a deduction of 50%. I will take the multiplier of 18 as taken by the Tribunal. I also add 40% future prospects and grant an amount of ₹ 30,000/- under various conventional heads as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in *SLP (Civil) No. 25590 of 2014* titled as *“National Insurance*

Company Ltd. V/s Pranay Sethi and others”. The various heads of claim are tabulated as under:-

Sr. No.	Heads of claim	Amount (₹)
1	Income	4900
2	Future prospects 40%	1960
3	Less Deduction (50%)	3430
4	Multiplicand (annualized by multiplying 12)	41160 (3430x12)
5	Multiplier	18
6	Loss of dependence	740880
7	Loss of Consortium	----
8	Loss to estate	15000
9	Funeral expenses	15000
	Total	7,70,880/-

The total compensation payable shall be ₹ 7,70,880/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% from the date of filing of the appeal till the date of realization. The liability shall remain the same as has already been determined by the Tribunal. The enhanced amount of compensation shall be paid within a period of three months from the date of the receipt of the certified copy of the order, failing which, it entails the further interest @ 12%.

Resultantly, the appeal is allowed and the award of the Tribunal is modified in the aforesaid terms.

16.11.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No