

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

**FAO No. 6392 of 2012 (O&M)  
Date of Decision: November 14, 2017**

**Sinder Kaur and another**

...Appellants

**Versus**

**Kuldeep Singh and others**

...Respondents

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Balbir Singh Sewak, Advocate  
for the appellants.

Mr. Vinod Chaudhri, Advocate  
for respondent no.4.

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**ANITA CHAUDHRY, J.**

This is the claimants' appeal seeking enhancement of the award dated 21.05.2012 passed by the Motor Accident Claims Tribunal, Barnala (here-in-after referred to as the Tribunal).

A claim petition was filed by the parents of Gurtej Singh who died in an accident which occurred on 25.07.2011. The claim petition on behalf of claimant no.3 had been withdrawn. Gurtej was 23 years old. It was stated that he was a farmer and was earning Rs.20,000/- per month. The claimants could not establish that Gurtej owned agricultural land or that he was assisting them. His income was taken as Rs. 4,000/- per month and the dependency was calculated to be Rs. 2,700/- per month. It applied the multiplier of 11 to calculate the

compensation of Rs.3,56,400/-. Rs. 5,000/- was allowed for funeral expenses and total claim of Rs.3,61,400/- was allowed to claimants no.1 & 2.

The submission on behalf of the appellants is that the income has been taken on the lower side. Counsel submits that a wrong multiplier had been applied and the multiplier keeping the age of the deceased should have been considered. Counsel submits that in view of the latest judgment rendered by Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi*** in SLP (Civil) No.25590 of 2014, there should be an addition of 40% towards future prospects and no amount had been allowed for loss of estate and love and affection.

The submission on the other hand is that the Tribunal had taken the minimum wages of 2011 and no addition towards future prospects should be made as it was not income which was established and the deduction would be 50% and the age of the claimants was rightly taken to apply the multiplier and no amount can be awarded for loss of love and affection and compensation on miscellaneous heads is allowed on three heads in Pranay Sethis case (supra).

The minimum wages are determined by the government taking into account several factors such as poverty threshold, prevailing wage rates as determined by the labour force survey and socio economic indicators which include inflation, employment figures, gross regional domestic products and the prevailing market rates etc. It also takes into account the cost of living, the cost of training, the

demand and supply. Minimum wages are fixed under an Act and therefore, the minimum wages can be taken as 'income established' and when the deceased is considered to be a labourer and minimum wages are taken, the addition towards future prospects would be made.

So far as the multiplier is concerned, the Apex Court in New India Insurance Vs. Shanti Pathak, 2007(3) RCR (Civil) 593 and Shakti Devi Vs. New India Insurance Co. Ltd., 2011 ACJ 15 has held that the multiplier would be considered as per the age of the claimants, therefore, the multiplier was correctly applied. Since the addition towards future prospects are to be made which would be @ 40%, therefore, the amount would come to Rs. 5,600/- per month. Making a deduction of 50%, the contribution would be Rs.2,800/- per month and the compensation would be  $\text{Rs.}2,800 \times 12 \times 11 = \text{Rs.}3,69,600/-$ . To this, a sum of Rs. 15,000/- is added for loss of estate and Rs.15,000/- is added as funeral expenses. The total of this comes to Rs.3,99,600/-. The Tribunal had allowed Rs.3,61,400, which would be deducted and the remaining amount would be payable with interest @ 6% from the date of filing of appeal till realization.

The appeal is partly allowed.

**(ANITA CHAUDHRY)**  
**JUDGE**

November 14, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No