

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

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FAO No.10604 of 2014(O & M)
Date of Decision:15.11.2017

Ramanpreet Kaur and others

...Appellants

Versus

Sukhwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.S. Patyal, Advocate
for the appellants.

Mr. Satpal Dhamija, Advocate
for respondent Nos.3 and 5.

ANIL KSHETARPAL, J.(Oral)

Claimants are in appeal against the award passed by the Motor Accident Claims Tribunal for enhancement of compensation.

Learned Motor Accident Claims Tribunal (hereinafter referred to as the Tribunal) after recording a findings that the deceased Amarjit Singh, aged about 32 years was driving a four wheeler-Light Transport Vehicle, assessed the income of the deceased to be Rs.4800/- per month, although the claimants had claimed the income of the deceased was Rs.12,000/-.

Learned counsel for the appellants has submitted that the income of a driver cannot be equated with an unskilled worker. He has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **“Minu Rout and another vs. Satya Pradyumna Mohapatra and others”** **2013 (3) Apex Court Judgments 347** to contend that in the case of accident, which took place in the year 2004, Hon'ble Supreme Court assessed the income of the deceased as Rs.6,000/-.

Taking into consideration that the driver of light transport vehicle cannot be equated with the unskilled worker, the Tribunal in the present case has committed an error in assessing the income of the deceased at Rs.4,800/- per month only, which comes to Rs.160/- per day, even an unskilled manual labour is not available at this rate.

Taking the facts and circumstances of the case, the income of the deceased is assessed at Rs.6,000/-. Learned trial Court has imposed a cut of 1/4th towards his personal expenses, thus, the income dependency comes to Rs.4500/-. (4500 x 12 x 16 = Rs.8,64,000/-)

As per the recent judgment passed by the Constitutional Bench of the Hon'ble Supreme Court of India in **“National Insurance Company Limited vs. Pranay Sethi and others” JT 2017 (10) SC 450**, 40% is to be added towards future prospects (Rs.3,45,600/-). Under the conventional heads, the Motor Accident Claims Tribunal has awarded Rs.1,10,000/-. However, as per the judgment passed by the Hon'ble Supreme Court in Pranay Sethi's case (supra), the total amount which can be awarded under conventional head is Rs.70,000/-. The total compensation comes to Rs.12,79,600/- (8,64,000 + 3,45,600 + 70,000).

Learned Motor Accident Claims Tribunal had awarded a sum of Rs.8,11,200/-, thus there is enhancement of Rs.4,68,400/-. The appellant shall be entitled to interest @ 7.5% per annum from the date of claim petition till realization.

The present appeal is allowed.

15.11.2017
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(ANIL KSHETARPAL)
JUDGE