

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

FAO No.1569 of 2014

Date of decision:- April 24, 2017

RAJINDER PARSHAD AND ANOTHER

....APPELLANTS..

VS.

SANJAY AND ANOTHER

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Ram Kumar Saini, Advocate,
for the appellants.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate,
for respondent No.2-Insurance Company.

JASPAL SINGH, J.

Aggrieved against the inadequacy of compensation awarded vide award dated 12.07.2013 passed by Motor Accident Claims Tribunal, Hisar (for brevity, "Tribunal" only) on account of death of Naveen, in a vehicular accident occurred on 18.04.2011 near Village Gangan Kheri, due to rash and negligent driving of Three Wheeler No.HR-39B-3449 by its driver Sanjay-respondent No.1, appellants-claimants (parents of the deceased) have preferred the instant appeal.

2. Assailing the impugned award dated 12.07.2013, it has been argued by learned counsel for the appellant(s) that ld. Tribunal has assessed the income of the deceased only to the tune of ₹4000/- per month, which is

less than the monthly minimum wages fixed by the Government for the year 2011-12. He has also urged that nothing has been awarded on account of loss of love and affection and future prospects whereas only a sum of ₹20,000/- has been awarded on account of funeral expenses, which is liable to be enhanced.

3. On the other hand, learned counsel for the respondents have supported the impugned award dated 12.07.2013 and has submitted that just and adequate compensation has already been awarded by the Id. Tribunal. There is no illegality and infirmity in the impugned award. Thus, appeal being devoid of merit is liable to be dismissed, that too, with special costs.

4. After bestowing due consideration to the rival submissions made by learned counsel for the parties, appraisal of evidence and scanning the impugned award dated 12.07.2013, this Court does not find any legal and factual substance in the various submissions made by learned counsel for the appellants.

5. Undisputably, the income of the deceased has been assessed to the tune of ₹4000/- per month, who was aged about 22 years at the time of accident. Since, there is no documentary evidence in support of the income being earned by the deceased, assessment of his income to the tune of ₹4000/- is legally and factually justified. Ld. Tribunal has rightly deducted 1/2 of his income, which deceased would have incurred towards maintaining himself had he been alive. Ld. Tribunal has adopted the multiplier of 18 by considering the age of deceased, which has rightly been applied, which is legally justified in view of the judgment passed by Hon'ble Apex Court in case ***“Smt. Sarla Verma and others vs. Delhi Transport***

Corporation and another” 2009(3) RCR (Civil) 77.

6. As far as the contention of learned counsel for the appellants regarding future prospect is concerned, it has rightly been declined by the Id. Tribunal, keeping in view the fact that matter with regard to the grant of future prospects to the persons having no gross salary and regular job, is still pending before the Hon'ble Supreme Court. However, all the benefits to which the claimants are entitled have not been extended by Id. Tribunal

7. Here, it would also be pertinent to mention that only a sum of ₹20,000/- has been awarded on account of funeral expenses and nothing has been awarded on account of loss of love and affection whereas the amount of compensation awarded in lump sum is unjust and inadequate, especially, in view of the guidelines laid down in ***“Smt. Sarla Verma and others's case (supra)*** which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the appellants/claimants being the parents of the deceased are entitled to compensation to the tune of ₹1,00,000/- on account of loss of love and affection and further entitled to a sum of ₹5,000/- more on account of funeral expenses. Thus, the total amount works out to ₹5,57,000/-, to which the appellants-claimants are entitled on account of death of Naveen. As such, appellant-claimant is entitled to enhanced compensation to the tune of ₹1,05,000/- as against the compensation of ₹4,52,000/- already awarded by the Id. Tribunal vide impugned award dated 12.07.2013.

8. As a sequel of the aforesaid discussion, appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹1,05,000/- in addition to the compensation already awarded. Respondents

No. 1 and 2 are directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹7.5% per annum from the date of filing of the claim petition before the Tribunal till its realization. Parties to bear their own cost.

April 24, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No