

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

FAO No. 4370 of 2013 (O&M)

Date of Decision: November 15, 2017

Geeta Devi and others

...Appellants

Versus

Nikhil Kotibhaskar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Akash Sridhar, Advocate for
Mr. J.S. Chatrath, Advocate
for the appellants.

Mr. Vikas Kumar, Advocate
for respondent nos.1 & 2.

Ms. Pinki, Advocate for
Mr. Vishal Goel, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the award dated 23.03.2013, passed by the Motor Accident Claims Tribunal, Faridabad (here-in-after referred to as the Tribunal).

Har Parshad Sharma was 48 years old who died in a motor vehicular accident on 12.12.2011. His date of birth as noted in the claim petition is 01.12.1963. He was working with Municipal Corporation, Faridabad on a permanent job. As per the salary certificate, his gross pay was Rs.22,299/- per month. After deduction of GPF of Rs.1,224/- per month he was getting net salary of

Rs.21,075/- per month. Geeta Devi, the widow had stated that she was getting Rs.20,000/- per month as salary from Municipal Corporation and that amount was being directly transferred in her bank account but she failed to produce the statement of account. The Tribunal held that there was no loss of income and allowed Rs.10,000/- for loss of consortium and Rs.10,000/- for loss of love & affection and for funeral expenses and an award of Rs.20,000/- was passed.

The counsel for the appellants contends that the trial Court had committed an error by not calculating the compensation or deducting the amount which was being received by the widow and only a small amount for loss of consortium and funeral expenses was allowed ignoring the settled position. It was urged that since he was a government employee, therefore, an addition of 30% towards future prospects was also required to be made, which was not done.

The submission on the other hand is that the widow has withheld the amount she was receiving and as per the Compassionate Financial Assistant Rules applicable in Haryana, the family continues to receive a sum equal to the pay and other allowances of the deceased that were last drawn and the widow would not get a lesser amount as was being stated.

The claimants had given the date of birth of the deceased in the claim petition, which is 01.12.1963. The accident had occurred on 12.12.2011. The deceased had completed the age of 48, therefore, as per Rule 5 of the Rules, the family would get pay and other allowances

that was last drawn by the deceased for a period of 7 years and that amount would be Rs.22,999 x 12 x 7 = Rs.19,31,916/-.

Calculating the compensation now, the deceased was getting salary of Rs.22,999/- per month and making an addition of 30%, the income would come to Rs.29,898/-. After deducting 1/4th towards personal expenses, the amount available for the family would be Rs.22,424/- and the compensation would be Rs.22,424 x 12 x 13 = Rs.34,98,144/- and as per the latest judgment rendered by Hon'ble Supreme Court in National Insurance Co. Ltd. Vs. Pranay Sethi in SLP (Civil) No.25590 of 2014, the addition on the miscellaneous heads would be Rs.70,000/- (Rs.15,000/- for funeral expenses, Rs. 15,000/- for loss of estate and Rs.40,000/- for loss of consortium). The total of this comes to Rs.35,68,144/-. Out of this amount, the amount which the widow would get as salary on full pay for 7 years as has been calculated above, which is Rs.19,31,916/-, would be deducted and the remaining amount would be payable by the insurance company with interest @ 6% from the date of filing of appeal.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 15, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No