

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

**FAO No. 65 of 2013 (O&M)
Date of Decision: November 09, 2017**

Neelam and others

...Appellants

Versus

Naresh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Kotla, Advocate
for the appellants.

Ms. Shallie Mahajan, Advocate for
Mr. R.S. Malik, Advocate
for respondent nos.1 & 2.

Mr. Subhash Goel, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

This the claimants' appeal seeking enhancement of the award dated 18.10.2012 passed by the Motor Accident Claims Tribunal, Panipat (here-in-after referred to as the Tribunal).

Sandeep was a cleaner on a truck, which met with an accident on 11.03.2010. The claim petition was filed by his widow, parents, younger brother and minor daughter. It was pleaded that Sandeep used to earn Rs.7,000/- per month. No evidence was led with respect to the income and the Tribunal took the income at Rs.4,000/- per month, which a labourer could earn. It made a deduction of 1/4th

and applied the multiplier of 18 to calculate the compensation at Rs.6,48,000/-. Rs.30,000/- were added for transportation and funeral expenses and Rs.12,000/- was allowed for pain and suffering and Rs.10,000/- for loss of consortium. A claim of Rs.7 lac was allowed.

The submission on behalf of the appellants is that as per the latest judgment rendered by Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi***, SLP (Civil) No.25590 of 2014, the future prospects have to be added when the income is established and when the minimum wages are being taken, there should be an addition of 40% towards future prospects and the deduction should have been 1/5th considering the number of claimants and the minimum wages in that year stood at Rs.4,214/- per month.

On the other hand, the submission is that there would be no addition towards future prospects as the income is not established and the claim has been filed even on behalf of the minor brother and the father who were not dependent and if those are excluded, there would be only three claimants and the deduction should be 1/3rd.

The minimum wages are determined by the government taking into account several factors 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.

Considering the age of the deceased, the addition would be 40%. The minimum wages stood at Rs.4,214/- per month in March 2010, therefore, making an addition of 40%, the income would be Rs.5,899/-. The deduction would be 1/3rd as the minor brother and the father could not be taken as dependent. The available monthly income for the purposes of calculations would be Rs.3,933/- and the compensation would be Rs. 3,933 x 12 x 18 = Rs.8,49,528/-. To this a sum of Rs. 15,000/- is added for loss of estate, Rs.40,000/- is added for loss of consortium and Rs.15,000/- is added as funeral expenses. The total of this comes to Rs.9,19,528/-. The Tribunal had allowed Rs.7,00,000, which would be deducted and the remaining amount would be payable only to appellants no.1 & 2 in the ratio of 50:30 and the balance amount would be paid to appellant no.3 i.e. mother of the deceased with interest @ 6% from the date of filing of appeal till realization by the insurance company.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 09, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No