

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

659

FAO No.861 of 2014

Decided on : 03.11.2017

Palvinder Kuar @ Balwinder Kaur and others

... Appellants

Versus

Darshan Lal and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.D.S.Gurna, Advocate
for the appellants.
No one appears for respondent No.2 in spite of service.
Mr.Kulwinder Singh, Advocat for
Mr.Sanjeev Goyal, Advocate for respondent No.3.

Avneesh Jhingan, J. (Oral)

The present appeal has been filed by the legal heirs of Gurnam Singh for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal') vide its award dated 16.07.2012.

2 Gurnam Singh aged 43years met with motor vehicular accident on 12.8.2011. His motorcycle was hit by rashly and negligently driven vehicle make TATA 407 bearing registration No.HR-58-A-2716. As a result of the accident, he suffered multiple injuries and ultimately succumbed to injuries. FIR No.79 dated 12.8.2011 was registered at Police Station Shambu.

3 The claim petition was filed under Section 166 of the Motor Vehicles Act 1988 (for short 'the Act').

4 The Tribunal after considering the material produced before it, awarded a sum of Rs.7,02,000/- along with interest at the rate of 9% per annum.

5 The fact regarding involvement of the vehicle or rash and negligent driving of the offending vehicle has not been disputed.

6 I have heard learned counsel for the parties, perused the paper-book and lower court record.

7 The grievance of the appellants is two fold. Firstly, the Tribunal has wrongly assessed earning of the deceased as Rs.6000/- whereas he was earning Rs.15,000/-. Second contention is that amount of Rs.30,000/- have been awarded under conventional heads (loss of consortium, funeral expenses and loss of estate) and the same are on the lower side.

8 Learned counsel for the Insurance company defended the award and resisted the enhancement of the amount. He contended that there was no material produced on record to show that the deceased was earning Rs.15,000/- per month.

9 From the perusal of the record it is evident that apart from the statement of the claimant, there was latest Income Tax Return produced as Ex.P-4. The said return was filed on 17.2.2011 i.e. prior to the date of the accident. The ITR pertains to assessment year 2010-11 meaning thereby, the financial period is w.e.f 2.4.2009 to 31.3.2010. As per the said return, the gross income shown was Rs.1,46,000/-. It would be pertinent note here the said acknowledgment of Income Tax Return was not rebutted by the respondents. The Tribunal has given no reasons for not considering the said Income Tax Return. It was one of the safest document to be relied upon for determining the earning of a person. In the Income Tax Return, since the income was below taxable limit, no tax was payable.

10. It is deemed appropriate that in absence of any dispute with regard to deduction of self expenses and multiplier applied, loss of

dependency is recalculated taking income of the deceased as per the

income tax return.

<i>Sr.No.</i>	<i>Loss of dependency</i>	<i>Total</i>
<i>1</i>	<i>12000 – 1/3rd deduction for self expenses</i> <i>Rs.8000 X 12 = 96,000 X 14</i>	<i>Rs.13,44,000/-</i>

11 That the contention of learned counsel for the appellants regarding enhancement of the amount awarded under the conventional heads is duly supported by the latest decision of the Apex Court in case **National Insurance Company Limited** vs. **Pranay Sethi and Ors.** (Special Leave Petition (Civil) No. 25590 of 2014) decided on 31.10.2017.

12 In the above decision, it has been held that an amount of Rs.70,000/- under conventional heads has to be awarded.

13 In view of the law laid down, the amount of Rs.30,000/- under the conventional heads is enhanced to Rs.70,000/- (Rs.15,000 for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium).

14 The award dated 16.7.2012 is modified to the extent that the amount of Rs.7,02,000/- awarded by the Tribunal is enhanced to Rs.14,14,000/-.

15 The claimants would be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

16 The appeal is partly allowed in the above terms.

[Avneesh Jhingan]
Judge

03.11.2017
sd

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No