

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

FAO No. 1516 of 2002

Date of decision:-02.05.2018

Smt. Geeta Devi and Others

---Appellant(s).

Versus

Babu Lal and Others

---Respondent(s).

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Akshat Mittal, Advocate, for
Mr. Sachin Mittal, Advocate,
for the appellant(s).

None for the respondent(s).

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 09.10.2001 passed by Motor Accident Claims Tribunal, Gurgaon (for short 'the Tribunal').

On 18.04.1999, Ram Lal was driving scooter bearing registration No.DL-9-SB-9314 on reaching near Bilaspur Chowk, a Rajasthan Roadways Bus bearing registration No.RJ-02-P-0581 (in short 'Offending Vehicle') hit the scooter. As a result of impact, Ram Lal suffered injuries and died at the spot. FIR No.66 dated 18.04.1999 was registered at Police Station Bilaspur.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by legal heirs of the deceased.

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 37 years at the time of accident. It was also proved that he was employed as a

Driver in National Research Development Corporation, New Delhi, Government of India Enterprises. The Tribunal awarded compensation of Rs.8,79,100/- along with interest at the rate of 9% per annum to the claimants. The said amount included Rs.25,000/- towards loss of consortium, pain and suffering etc.

The present appeal has been filed for enhancement of compensation.

The appellant(s) are legal heirs of Ram Lal. Respondent No.1 is driver of the offending vehicle, respondent No.2 is the owner of the bus, Rajasthan State Road Transport Corporation (R.S.R.T.C.) and respondent No.3 is the Secretary, R. S. R .T. C. Transport Department.

No one has appeared on behalf the respondents, despite service.

Learned Counsel for the appellants raised issue that no future prospects have been added and the amount awarded under the conventional heads is on the lower side.

The contention raised by the learned counsel for the appellants deserves acceptance. In consonance with the decision of the Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157***, 50% future prospects are to be added. The salary of the deceased was taken by the Tribunal as Rs.7,120/- per month which is not in dispute. He was permanent employee. The deduction of 1/3rd towards self expenses of the deceased has been rightly made by the Tribunal.

Since the compensation is being recalculated, it would be appropriate to make it in consonance with the decision of the Supreme Court. In ***Pranay Sethi's Case (Supra)***, the Supreme Court has held that an amount of Rs. 70,000/- is to be awarded under conventional heads i.e.

Rs.15,000/- towards loss of estate, Rs. 15,000/- towards funeral expenses and Rs.40,000/- towards loss of consortium.

For the reasons mentioned above, the compensation is recalculated as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹ 7,120/- per month
(ii)	50% added towards future prospects	₹ 7,120+3,560=10,680/- per month
(iii)	1/3 rd deduction towards self expenses of the deceased	₹ 10,680-3,560=7,120/- per month
(iv)	Multiplier of 15 applied	₹ 7,120X12X15= 12,81,600/-
(v)	Loss of estate	₹15,000/-
(vi)	Funeral expenses	₹15,000/-
(vii)	Loss of consortium	₹40,000/-
	Total Compensation Awarded (iv)+(v)+(vi)+(vii)	₹ 13,51,600/-

The award dated 09.10.2001 is modified to the extent that the amount awarded of ₹ 8,79,100/- is enhanced to ₹ 13,51,600/-.

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

Accordingly, the present appeal is partly allowed to the above extent.

02.05.2018

Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No