

203.

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

FAO-2386-2000

Date of decision:02.05.2018.

SOMI DEVI & ORS

... Appellants

Versus

JAI RAM & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ravi Gakhar, Advocate, for
Mr. Jagdish Manchanda, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate, for
Mr. Ravinder Arora, Advocate,
for respondents No.2 and 3.

HARI PAL VERMA, J.(Oral)

Appellants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accident Claims Tribunal, Karnal (for short, "the Tribunal") vide award dated 31.01.2000.

In a claim petition filed under Section 163-A read with Section 166 of the Motor Vehicles Act (for short, "the Act"), the Tribunal has awarded a total compensation of ₹2,98,166/- to the claimants on account of death of Raj Kumar in a motor vehicular accident which took place on 04.07.1998.

The rash and negligent driving has been proved. The Tribunal has assessed the compensation under Section 166 of the Act. As per the claim petition, the deceased-Raj Kumar was about 36 years of age and was working as a labourer on the date of accident. Considering his income as

compensation of ₹2,98,166/- along with interest.

Learned counsel for the appellants states that as held in the judgment of Hon'ble Apex Court rendered in **National Insurance Company Limited Versus Pranay Sethi and others- 2017(4) RCR (Civil) 1009**, the claimants are also entitled for addition towards future prospects and the deceased being 36 years of age, addition of 40% is to be made under this head. Similarly, as per the age of the deceased, multiplier 15 was required to be applied instead of 13 as awarded by the Tribunal. Since the claimants are more than six, 1/5th deduction is required to be made.

On the other hand, learned counsel for the respondents No.2 and 3 has argued that the Tribunal has already awarded adequate compensation and there is no further scope of any enhancement in compensation.

I have heard learned counsel for the parties.

The rash and negligent driving has duly been proved. What is in dispute in the present case is the compensation awardable to the claimants. The deceased-Raj Kumar was about 36 years of age at the time of accident. Considering the wages as awardable to a labourer, the Tribunal has considered the income of the deceased as ₹2,205/- per month. Since the deceased has left behind widow, seven children and old parents, 1/5th deduction is to be made.

Accordingly, this Court finds that the claimants are entitled to the following amount of compensation:-

Heads		Calculation
Monthly Income		₹2,200
Future prospects (%age)	40	₹880
Total monthly income (monthly income + Future prospects)		₹3,080
Annual income (total monthly income x 12)		₹36,960

<u>FAO-2386-2000</u>		- 3 -
Deductions (towards personal expenses of deceased)	1/5 th	
Annual dependency (Annual income-deduction towards personal expenses of deceased)		₹29,568
Multiplier	15	
Total loss of dependency (annual dependency x multiplier)		₹4,43,520
Conventional heads:		
Loss of Estate		₹15,000
Funeral expenses		₹15,000
Loss of consortium		₹40,000
Total amount of compensation		₹5,13,520
Amount already awarded		₹2,98,166
Enhancement		₹2,15,354

Accordingly, an amount of ₹2,15,354/- is enhanced over and above the amount already granted by the Tribunal. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of claim petition till its realization.

With the aforesaid modification in the award, present appeal stands disposed of.

At this stage, Mr. Khanna has pointed out that an appeal has been filed by respondents No.2 and 3-HRTC against the impugned award independently. The present appeal is being decided on the given facts without prejudice to the rights of respondents in the appeal filed by HRTC.

(HARI PAL VERMA)
JUDGE

02.05.2018
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No