

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5513 of 2002 (O&M)
Date of Order:22.01.2018

Sunita and others

..Appellants

Versus

Surinder and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jitender Dhanda, Advocate,
for the appellants.

Mr. G.D.Gupta, Advocate,
for the respondent-Insurance Company.

ANIL KSHETARPAL, J (Oral)

Claimants are in appeal against the judgment passed by the Motor Accident Claims Tribunal, awarding a sum of Rs.11,44,100/- on account of death of late Sh. Kitab Singh in a motor vehicular accident. Appellants claim that the compensation awarded is inadequate.

Learned counsel for the appellants has submitted that late sh. Kitab Singh, the deceased, was in a permanent government job and, therefore, as per the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, Special Leave Petition (civil) No.25590 of 2014, decided on 31.10.2017. 50% of the income should have been added towards future prospects. He has also submitted that the Court has awarded a sum of Rs.10,000/- towards loss of consortium, which should be Rs.40,000/- as per the judgment of the **National Insurance Company Limited** (supra). Counsel has further

submitted that the appellants are entitled to Rs.15,000/- towards funeral expenses and Rs.15,000/- for loss of estate.

On the other hand, learned counsel for the Insurance Company has submitted that the accident took place on 21.09.2000 and, therefore that fact should be kept in consideration while awarding the compensation amount.

No doubt, the accident took place on 21.09.2000, however, the dependent have lost their sole bread earner i.e. Late Sh. Kitab Singh. The dependents are widow, a minor son and old widowed mother.

Learned counsel for the Insurance company has submitted that Surender, was driving Maxi Cab for commercial purpose and, therefore, he was not possessing valid licence.

The learned Motor Accident Claims Tribunal has examined this issue and found against the Insurance Company. There is no cross appeal.

In any case, once the driver was having a valid driving licence of car and jeep and Maxi Cab comes within the definition of car and jeep. The driving licence cannot be ignored on the ground that the vehicle was being driven for commercial purpose.

<i>Heads</i>	<i>Compensation awarded by MACT</i>	<i>Compensation awarded by High Court</i>
Loss of income	Rs.6245x12x15=Rs.11,24,100/-	Rs.6245+3122.50=9367.50x12x16=17,98,560/-
Loss of Consortium	Rs.10,000/-	Rs.40,000/-
Funeral expenses	Rs.10,000/-	Rs.15,000/-
Loss of Estate	NIL	Rs.15,000/-
Total	Rs.11,44,100/-	Rs.18,68,560/-

The enhanced amount shall be payable along with interest @ 7.5% from the date of claim petition till realization.

In view thereof, the appeal filed by the appellants is allowed.

The distribution of compensation amongst the claimants shall be in the same proportion as ordered by the learned Motor Accident Claims Tribunal.

January 22, 2018

(ANIL KSHETARPAL)
JUDGE

nt

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No