

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

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Date of Decision : 18.09.2018

1.

FAO No.1869 of 2003 (O&M)

Asha Rani and others

..... Appellants

Versus

Harpal Singh and others

..... Respondents

2.

FAO No.1870 of 2003 (O&M)

Asha Rani and others

..... Appellants

Versus

Harpal Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Jatinder Kumar Sharma, Advocate for
Mr. Shailendra Sharma, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for the insurance company.

AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two appeals.

FAO No.1869 of 2003 has been filed for enhancement of
compensation and for modifying the award dated 19.08.2002 passed by
the Motor Accident Claims Tribunal, Ludhiana granting compensation of
Rs.4,43,000/- and interest @ 9% per annum on account of death of

Satish Kumar aged 49 in an accident

The brief facts of the case are that on 14.04.2000 Satish Kumar and Lalit Kumar were going on their scooter bearing No.PB-10AG-6921 driven by deceased Lalit Kumar from Bus Stand to Fountain Chowk, Ludhiana. When they reached near Bharat Nagar Chowk at 10.30 PM, one tanker bearing No.PB-11B-9945 driven by respondent No.1 came from Jagroan Bridge side on a very high speed in a rash and negligent manner hit the scooter from the side as a result of which both fell down. Satish Kumar died at the spot whereas Lalit Kumar died on the way to hospital. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

Counsel for the appellants has argued that in view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 25% had to be awarded on account of future prospects. I find this to be indeed so. It is held that 25% has to be awarded towards future prospects.

Counsel for the appellants further states that in view of the judgment of the Supreme Court in the matter of *Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298* the multiplier of 13 had to be applied. I find this to be indeed so. Ordered accordingly. Since there are four claimants, the deduction would be 1/4th.

Further counsel for the appellants has argued that the Tribunal has awarded Rs.3,000/- under conventional heads and as per the judgment passed in *Pranay Sethi (supra)* Rs.67,000/- more has to be

awarded under the said head. I find this to be indeed so. Consequently, I grant Rs.67,000/- more under conventional heads.

FAO No.1870 of 2003 has been filed for enhancement of compensation and for modifying the award dated 19.08.2002 passed by the Motor Accident Claims Tribunal, Ludhiana granting compensation of Rs.1,29,000/- and interest @ 9% per annum on account of death of Lalit Kumar aged 22 years in an accident.

Counsel for the appellants states that the deceased-Lalit Kumar had passed his B.A. First year examination and was doing accounts and tuition work. He further states that even if no proof of income was given the income could not have been taken at meager amount of Rs.1,000/-. I find some merit in this argument and consequently, increase the income to Rs.2,000/-.

Counsel for the appellants has argued that in view of the judgment passed in ***Pranay Sethi's case supra***, 40% had to be awarded on account of future prospects. I find this to be indeed so. It is held that 40% has to be awarded towards future prospects.

Counsel for the appellants further states that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma's case supra***, the multiplier of 18 had to be applied. I find this to be indeed so. Ordered accordingly. Counsel for the insurance company states that since he was a bachelor deduction would have to be 50%.

Further counsel for the appellants has argued that the Tribunal has awarded Rs.3,000/- under conventional heads and as per the judgment passed in ***Pranay Sethi (supra)*** and ***Sureshchandra Bagmal***

Doshi & anr. Vs. The New India Assurance Company Limited & ors,

2018(2) RCR (Civil) 841 compensation of Rs.67,000/- more should be awarded since the deceased was a bachelor. I find this to be indeed so. Consequently, I grant Rs.67,000/- more under conventional heads.

The rate of interest on the enhanced amount would be @7.5% per annum from the date of filing of claim petition till the date of payment. Out of the enhanced compensation appellant No.1-Asha Rani in FAO No.1869-2003 would get 40% and appellants No.2, 3 & 4 would get 20% each. In FAO No.1870-2003 the entire compensation would go to appellant No.1-Asha Rani.

Both the appeals are allowed in the above terms and the awards are modified accordingly.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

18.09.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No