

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

522

Date of decision: 12.09.2018
FAO-3163-2004 (O&M)

JASWINDER KAUR AND OTHERS

... Appellants

Versus

KULBIR SINGH AND OTHERS

... Respondents

FAO-3164-2004 (O&M)

DALBIR SINGH

... Appellant

Versus

KULBIR SINGH AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vijay Lath, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for respondent No.3.

AJAY TEWARI, J. (Oral)

This order shall dispose of abovementioned appeals.

FAO-3163-2004 (O&M)

This is an appeal for enhancement of compensation and for modifying the award dated 13.03.2003 passed by the Motor Accidents Claims Tribunal, Rupnagar granting compensation of Rs.2,84,000/- along with interest @ 9% per annum in favour of the appellants and against the respondents.

Learned counsel for the appellants has argued that the Tribunal erred in taking the income for 25 days which should have been taken for 30 days and therefore, the monthly income would have amounted to Rs.2400/- instead of Rs.2100/-. I find favour in this argument and it is held that the income should be Rs.2400/-. Counsel has argued that in view of the judgment passed in **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, 40% had to be awarded on account of future prospects. Counsel for respondent No.3 is not in a position to deny this. It is held that 40% has to be awarded towards future prospects.

Jaswinder Singh stated that age of the deceased was 31 years. Counsel for the appellants further stated that in view of the judgment passed by Hon'ble the Supreme Court in **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, multiplier of 16 had to be applied. Counsel for respondent No.3 is not in a position to deny this. Therefore, it is held that multiplier of 16 has to be applied.

Further, counsel for the appellants has argued that the Tribunal has awarded Rs.32,000/- under conventional heads and as per the judgment passed in Pranay Sethi's case (supra) the compensation of Rs.38,000/- more should be awarded. I find this to be indeed so, consequently, I grant Rs.38,000/- more under conventional heads.

Interest on the enhanced amount would be 7.5% per annum from the date of claim petition till realization. However, I deem it appropriate to disburse the entire amount in favour of appellant No.1. 50%

of the amount be released and remaining 50% be deposited in a fixed deposit receipt in any Nationalized bank for a period of two years.

FAO No.3164 of 2004

This is an appeal for enhancement of compensation and for modifying the award dated 13.03.2003 passed by the Motor Accidents Claims Tribunal, Rupnagar granting compensation of Rs.2,93,000/- along with interest @ 9% per annum in favour of the appellant and against the respondents.

Learned counsel for the appellants has argued that income should have been taken as Rs.2400/- instead of Rs.2000/-. Counsel for respondent No.3 is not in a position to deny this. I find favour in this argument and it is held that the income should be Rs.2400/-.

Counsel for the appellant further stated that in view of the judgment passed by Hon'ble the Supreme Court in Sarla Verma's case (*supra*), multiplier of 17 had to be applied. Counsel for respondent No.3 is not in a position to deny this. It is held that multiplier of 17 has to be applied.

Counsel 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. Counsel for respondent No.3 is not in a position to deny this. It is held that 40% has to be awarded towards future prospects.

Counsel has further argued that the appellant was a labourer and his one leg was amputated and he is functionally disabled to the extent

of 100%. In **Syed Sadiq etc. Divisional Manager, United India Insurance Co. Ltd., 2014(1) RCR (Civil) 765**, where Hon'ble the Supreme Court has held that whose leg was amputated above the knee and disability would be to the extent of 85%. In the present case, the appellant is a labourer and his right leg was amputated above the knee. Consequently, his functional disability is taken to be 100%.

Counsel for the appellant has relied upon decision of **Syed Sadiq's case (supra)** and stated that nothing has been granted towards cost of artificial leg. I accept this and grant a sum of Rs.1 lakh on this account.

Interest on the enhanced amount would be 7.5% per annum from the date of petition till realization.

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

(AJAY TEWARI)
JUDGE

12.09.2018
ashok

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No