

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

FAO No.1078 of 2005 (O&M)

Date of Decision: April 30, 2018

Krishna and others

...Appellants

Versus

Subhash Chand and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Navneet Singh, Advocate
for the claimants - appellants.

Mr. Anshul Khanna, Advocate
for Mr. Sanjay Vasisth, Advocate,
for Respondent No.2

Mr.Navin Kapur, Advocate
for respondent No.3 – Insurance Company.

HARINDER SINGH SIDHU, J.

The claimants have filed the present appeal for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Sonipat (for short 'the Tribunal') vide its award dated 08.11.2004.

Brief facts as disclosed in the claim petition are that on 07.03.2002 in the area of Gagan Dharam Kanta near Muzaffar Nagar a vehicular accident took place involving Bus No.UP-13C/5448 (herein for short 'the offending vehicle'), wherein, Rajbir lost his life. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

The Tribunal assessed the income of the deceased at Rs.2100/- per

month, deducted 1/3rd towards his personal expenses, applied the multiplier of 14 (deceased aged about 40 years). The loss of dependency was assessed at Rs.2,35,200/- (1400x12x14). Besides, Rs.5000/- as 'solatium and funeral expenses' were awarded. In all, compensation of Rs.2,40,200/- along with interest was awarded.

Feeling dissatisfied with the quantum of compensation, the claimants are before this Court.

It is argued on behalf of the claimants/appellants that the Tribunal has not followed any procedure while assessing the compensation. Neither any future prospects have been granted, nor the proper multiplier has been applied to assess the loss of dependency. It is further argued that no separate amount has been awarded under conventional heads as per the settled law.

Having heard learned counsel for the parties and in view of the decision of the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others (2017) 16 SCC 680, the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Monthly Income	2100/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 40 yrs.)	2100+(2100x40/100)= 2,940/-
(iii)	Monthly dependency (1/5 th of (ii) deducted as personal expenses of the deceased – eight dependants)	2940-(2940x1/5)= 2352/-
(iv)	Loss of dependency after multiplier of 15 is applied	2352 x 12 x 15= 4,23,360/-
(v)	Loss of Consortium (Exclusively payable to the widow of deceased)	Rs.40,000/-
(vi)	Loss of Estate	Rs.15,000/-
(vii)	Funeral Expenses	Rs.15,000/-
	Total	Rs.4,93,360/-

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.4,93,360/-, that is, Rs.2,53,160/- (493360-240200) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

April 30, 2018

(HARINDER SINGH SIDHU)

JUDGE

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No