

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-4054-2005 (O&M)
Date of Decision : 31.7.2018

Gurmail Kaur and another

....Appellants

vs.

Sukhdarshan lal and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ankur Gupta, Advocate for the appellants.

Mr. R.C.Gupta, Advocate
for the respondent-insurance company.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 11.5.2005 passed under Motor Accident Claims Tribunal, Ludhiana awarding compensation of Rs. 1,07,800/- alongwith interest at the rate of 9% per annum on account of death of Amrit Pal Singh in an accident.

Brief facts of the case are that the deceased was going from Dohraha to Village Horla, Tehsil Samrala, Ludhiana on his motor cycle. When he reached opposite telephone exchange Dohara on G.T. Road, then a truck came from behind driven by respondent No.1 and struck against the motor cycle of the deceased. Due to that, he fell down on the road and suffered multiple injuries and the truck ran over the deceased and died at the spot. Claim petition was filed and the Tribunal ordered the compensation as mentioned above.

Counsel for the appellants argues that in view of the Constitution Bench judgment of the Supreme Court in the matter of

National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4)

RCR (Civil)1009 40% future prospects have to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 40% future prospects.

Counsel for the appellants further states that as per 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 18 has to be applied instead of 12. I find this to be indeed so. Consequently, it is held that multiplier of 18 has to be applied.

Further counsel for the appellants has argued that the Tribunal has awarded a sum of Rs. 7000/- under the conventional heads and as per the judgment passed in Pranay Sethi (supra) the compensation of Rs.30,000/- has to be awarded under this heads. Counsel for the insurance company is not in a position to deny this fact also. Consequently, I award Rs. 23,000/- under the conventional heads.

Counsel for the insurance company has pointed out that this was a case where the mother was the only legal representative-claimant and consequently, deduction could not have been $\frac{1}{3}$ rd and should have been $\frac{1}{2}$.. I find merit in this argument. Consequently, I direct that deduction had to be $\frac{1}{2}$.

The other aspects of the Award will remain unchanged except that interest rate on enhanced amount would be at the rate of 7.5% from the date of filing of claim petition till the date of payment.

The appeal stands disposed of with the above said modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

31.7.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No