

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

FAO No. 2062 of 2006

Date of decision : August 16, 2018

Radha Rani and others

..... Appellants

v.

Mohar Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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

Mr. Gopal Mittal, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation.

Brief facts are that on 17.10.2004 at about 4 pm, Subhash Chander, since deceased, along with four other persons, was going from Fatehabad to Chandigarh/Panchkula in a car being driven by him and when they reached near village Danoda, a vehicle came from the front side with its head lights on, and a truck was lying parked in the middle of the road without its indicators on or any other signal/s. The deceased could notice the offending truck just reaching near to it, and although he applied brakes but could not save the accident and his car struck in the rear portion of the truck. As a result of this accident, all the occupants of the car sustained injuries and the deceased died on the way to the hospital. Hence, the claim

application was filed by the claimants for compensation on account of death of Subhash Chander.

The Tribunal held both the drivers of the vehicles equally responsible for causing the accident. Income of the deceased was assessed as ₹99,000/- per year, deduction of one third was taken, and after applying multiplier of 15, total compensation assessed was ₹ 10 lakhs including ₹ 5,000/- for funeral and ₹ 5,000/- for loss of consortium. Since it was contributory negligence of both the drivers, the claimants were held entitled to receive ₹ 5 lakhs only.

Counsel for the appellants has argued that the Tribunal has applied multiplier of 15 which is on lower side. The deceased was 33 years of age at the time of his death and in view of the decision of the Supreme Court in Sarla Verma and others vs Delhi Transport Corporation and another, AIR 2009 (SC) 3104, multiplier of 16 should be allowed. Counsel for respondent No.3 is not in a position to dispute this. Consequently, I order that multiplier of 16 be applied in this case.

Counsel for the appellants has further argued that future prospects have not been granted. As per him, the deceased being an LIC agent was entitled to future prospects @ 50% as per his age which was 33 years, in view of the decision of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009. Counsel for the Insurance Company, however, points out that the salary of the deceased was only ₹ 50,000/- per annum and a sum of ₹ 49,000/- per annum was added on the basis of commission and consequently he should be taken to be a self employed person and hence future prospects should be 40%.

In my opinion, arguments of both the counsels are too extreme. There are two components on the earning of the deceased in the present case; one regular salary and the second is his own business. In the circumstances, I deem it appropriate to grant future prospects @ 50% on the salary amount of ₹ 50,000/- per annum, and @ 40% on the commission amount which is ₹ 49,000/- per annum. Ordered accordingly.

Counsel for the appellants has further argued that under conventional heads, only a sum of ₹ 10,000/- has been awarded. Counsel for respondent No.3 has accepted this also. Consequently, in view of the decision of the Supreme Court in Pranay Sethi and others' case (supra), I grant ₹ 60,000/- more under conventional heads. Remaining part of the Award viz interest, management and apportionment would remain the same.

With this modification in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 16, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No