

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

305

FAO-2738-2008 (O&M)

Date of Decision : 11.07.2018

Vandana and another

..... Appellants

Versus

Bhupinder Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.S. Mamli, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. D.P.Gupta, Advocate
for the respondent No.3- Insurance Company.

AJAY TEWARI, J. (Oral)

This is an appeal for enhancement of compensation and for modifying the award dated 02.08.2008 granting compensation of Rs.5,70,000/- with interest @ 7.5 % per annum in favour of the claimants-appellants and against the respondents.

None has entered appearance on behalf of respondents No.1 and 2 despite service.

Brief facts of the case are that on 25.11.2005 at about 5.00 a.m., Anil Kumar along with Inderpal and Aman Sharma was coming to Yamuna Nagar from Ambala on motorcycle bearing registration No.HR-02M-2150. When they reached just ahead of Dosarka Crossing and short of Gurdawara Dosarka, an Indica Car bearing registration No.CH-03K-7572 which was being driven in a rash and negligent manner by respondent No.1, came from the opposite side, hit the motorcycle of Anil

Kumar. Due to which, Anil Kumar fell down on the road and was crushed under the wheel of the car. Inderpal and Aman Sharma also sustained multiple grievous injuries on their person. All the injured were firstly taken to M.M. College & Hospital Mullana where Anil Kumar was declared brought dead. Inderpal, one of the injured, was referred to PGI Chandigarh.

Counsel for the appellants has argued that in view of the judgment of the Supreme Court in the matter of *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, future prospects at the rate of 40% had to be granted. Moreover, under conventional heads only an amount of Rs.10,000/- has been paid and that should be Rs.70,000/- and the multiplier of 16 has to be applied. I find this to be indeed so. Consequently, I grant Rs.60,000/- under the conventional heads and 40% towards future prospects. Further it is held that multiplier of 16 has to be applied.

Learned counsel for the Insurance Company states that the dependency of 7/9 cannot be maintained and deduction should be 1/4th rather than 7/9. I find it to be correct. Consequently, the dependency is fixed at 1/4th.

As regards the apportionment, it is directed that the enhanced amount would be divided between the appellants and respondents No.4 and 5. Both the appellants (individually) and the respondents No.4 and 5 (collectively) would be entitled to 1/3rd of the enhanced amount.

Appeal is disposed of in the above terms and the award is modified accordingly.

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

July 11, 2018
A.Kaundal

(AJAY TEWARI)
JUDGE

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