

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

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**CM-1436-CII-2018 in/and
FAO-2461-2007 (O&M)
Date of Decision : 31.8.2018**

Mrs. Varinder Jit Kaur and another

....Appellants

vs.

Sh. Raj Kumar and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. R.N.Singal, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

CM-1436-CII-2018

This is an application for early hearing of the main case.

For the reasons recorded, the same is allowed and the case is heard today itself.

This appeal has been filed against the award dated 17.2.2007 passed under Motor Accident Claims Tribunal, Ropar awarding compensation of Rs. 10,03,450/- alongwith interest at the rate of 9% per annum on account of death of Sarbjot Singh in an accident.

Since liability of the insurance company is not disputed, service upon respondents No.1 and 2 is exempted.

Brief facts of the case are that the deceased was a working as Master in Govt. High School Takarala. On 2.8.2004 the deceased sustained

serious injuries and died in a motor vehicle accident because of the rash and negligent driving of truck while he was going on the road leading from Nurpur Bedi to Naya Nangal on his motorcycle. Claim petition was filed by the claimants and have been awarded abovementioned compensation.

Firstly, counsel for the appellants has stated that the Tribunal erred in taking net salary whereas total salary had to be taken. Counsel for the respondent-insurance company has accepted this. Consequently, it is held that total salary has to be taken.

Secondly, counsel for the appellants has argued 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*** 50% future prospects have to be granted. Counsel for the respondent is not in a position to deny this fact. Consequently, I award 50% future prospects.

Third argument raised by the learned counsel for the claimants is that the Tribunal erred in applying the deduction at $\frac{1}{2}$ and since there are two claimants, it should be $\frac{1}{3}$. Learned counsel for the insurance company is not in a position to deny this fact also. Therefore, it is held that deduction has to be $\frac{1}{3}$ instead of $\frac{1}{2}$.

Fourth argument raised by the learned counsel for the appellants is that in view of 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 17 has to be applied instead of 15. Learned counsel for the insurance company is not in a position to deny

this also. Consequently, it is held that multiplier of 17 has to be applied.

Counsel for the appellants has further argued that as per the judgment of Pranay Sethi (supra), under the conventional heads Rs.70,000/- is to be payable whereas the Tribunal has awarded Rs.5,000/- as consortium and Rs. 5,000/- has been awarded for the last rites of the deceased. Counsel for the insurance company has very fairly accepted this fact. Consequently, I award Rs. 60,000/- more under the conventional heads.

Counsel for the insurance company has however pointed out that the tax has to be deducted and future prospect can be awarded only after deduction of tax. Counsel for the appellants is not in a position to deny this fact. Ordered accordingly.

Counsel for the insurance company has further pointed out that interest at the rate of 9% is highly excessive. I find this to be correct. Therefore, I award 7.5% rate of interest on the enhanced amount from the date of filing of the claim petition till the date of realization.

The apportionment would be same as ordered by the Tribunal. However there would be no restriction to deposit the amount in fixed deposit and the money should be disbursed to the claimants.

Resultantly, this appeal stands disposed of with the abovesaid modifications.

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

31.8.2018
anuradha

(AJAY TEWARI)
JUDGE

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