

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

FAO No. 2046 of 2012 (O&M)

Date of Decision:- 27.04.2018

Jaspal Kaur & Ors.

....Appellants

Versus

Gurminder Singh & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. T.P.S. Tung, Advocate, for the appellants.

Mr. Paul S. Saini, Advocate, for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

Claimants in MACT Case No. 97T/2K9/23.02.2007, are in appeal being aggrieved of quantum of compensation awarded by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for short, 'the Tribunal') vide award dated 05.12.2011.

Brief facts of the case are that Santokh Singh, aged 40 years, lost his life in a motor vehicular accident that took place on 04.12.2006. The deceased alongwith his wife was going from their village to Mandi Gobindgarh on scooter bearing registration No. PB-48-8688. A truck bearing registration No. HR-37-A-3819 (for short, 'the offending vehicle') being driven rashly and negligently struck the scooter from behind. As a result of the accident Santokh Singh and his wife fell on the road. Santokh Singh died at the spot and his wife suffered injuries. FIR No. 184, dated 04.12.2006 was registered at Police Station Mandi Gobindgarh.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, the Act) was filed by the legal heirs of the deceased. The

Tribunal vide award dated 11.01.2010 awarded compensation of Rs.14,29,000/-. The Tribunal awarded a conditional interest which was to be paid if payment was not made within two months from passing of the award.

The insurer of the offending vehicle being aggrieved of the award filed FAO No. 2140 of 2010. This Court set aside the award and remitted the matter back to the Tribunal for fresh determination of compensation in light of the guidelines given thereon. In pursuance to the remand the Tribunal passed the award dated 05.12.2011 and awarded a compensation of Rs.6 lakhs.

It would be pertinent to mention here that during the litigation the claimants admittedly received Rs.8,25,000/- from the Insurance Company, as a result of payments made in compliance with the interim order and statutory deposit for appeal. The Tribunal while passing the award dated 05.12.2011 ordered that balance amount of Rs.2,25,000/- be recovered from the claimants along with interest @6% per annum.

Aggrieved of the award dated 05.12.2011, the claimants are in appeal for enhancement of compensation.

The facts are not disputed by either of the parties. The compensation has been calculated as per guidelines given by the High Court.

The issue which arises for consideration is that no future prospects were added by the Tribunal while awarding the compensation and the amounts totaling to Rs.35,000/- awarded for conventional heads are on the lower side.

The contentions raised by learned counsel for the appellants deserve acceptance in view of the decision of Hon'ble Supreme Court in

National Insurance Co. Ltd. Vs. Parney Sethi and Ors. 2017 SCC 1270.

Deceased was in the age group of 40-49 and was in category of having a fixed salary or self-employed, 25% future prospects are to be added. The claimants are entitled to Rs.70,000/- (i.e. Rs.15,000/- for loss of funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium) under conventional heads.

The compensation is re-calculated as under :-

Annual earning	=	Rs.50,000/-
plus 25% future prospects	=	Rs.12,500/-
1/4 rd deduction for self-expenses	=	Rs.15625/-
Total	=	Rs.46875/-
Multiplier of 15	=	Rs.7,03,125/-
Funeral expenses	=	Rs.15,000/-
Loss of estate	=	Rs.15,000/-
Loss of consortium	=	Rs.40,000/-
Total	=	Rs.07,73,125/-

The Tribunal has not considered that under Section 171 of the Act the claimants were entitled to interest on compensation. No reasons have been mentioned in the award for not awarding the interest. However, the claimants are entitled to interest from the date of filing of the claim petition till they have received the payment of compensation and the amount now awarded. There are no circumstances or reasons to deny this statutory interest to the claimants. The claimants are entitled to interest @6% from the date of filing of the claim petition till they have received compensation

of Rs.7,73,125/-. The Insurance Company will calculate the interest and pay the same within two months from today, if not already paid.

Accordingly, the present appeal is disposed of.

April 27, 2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned :Yes/No
Whether Reportable : Yes/No