

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5742 of 2012 (O&M)

Date of Decision:01.02.2018

Laxmi Devi and others

.....Appellants

Versus

Sanjay Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Deepak Sharma, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J.(oral)

The present appeal is against the award dated 23.05.2012 passed by the Motor Accidents Claims Tribunal, Ambala (for short 'the Tribunal').

Puran Chand aged 50 years, lost his life in a motor vehicular accident that occurred on 30.07.2010 due to rash and negligent driving of motor cycle bearing registration No.HR-01-T-3349.

In a claim petition filed by legal heirs of deceased under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal awarded Rs.3,33,500/-, alongwith interest at the rate of 6% per annum. The amount awarded included Rs.1500/- for medical expenses and Rs.20,000/- under conventional heads.

I have heard learned counsel for the parties, perused the paper book and the record.

The deceased was claimed to be working as Mason. The said fact was substantiated by the statement of the widow and by the statement of Ram Lal-PW2, who was also working as a Mason. The claimants were not able to substantiate the monthly earning of the deceased. Since occupation was proved, the only reliable yardstick to assess the monthly earning was the minimum wages prevalent in the State of Haryana. At the time of accident, Rs.4600/- were the minimum wages for a semiskilled labourer.

The deceased was survived by widow and two sons. One of the son was student of class 10+2, it was proved in the cross-examination of appellant No.1.

Hon'ble the Apex Court in case of **Sarla Verma and others Vs. Delhi Transporation Corporation and another (2009)6 SCC 121** has held that where the deceased is survived by two to three dependents 1/3rd deduction should be made for self expenses. Multiplier of 13 has to be applied where deceased was aged 50 years.

Future prospects of 10% are to be awarded in consonance with the decision of Hon'ble the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017.**

The amount awarded under conventional heads of Rs.20,000/- is enhanced to Rs.70,000/- as held by Hon'ble the Apex Court in **Pranay Sethi's case (supra).**

The compensation is recalculated as under:

Monthly earning	4600x12=55,200/-
1/3 rd deduction for self expenses	Rs.18400/- Rs.36,800/-
10% future prospects	Rs.3680/- Rs.40,480/-
Applying multiplier of 13	Rs.5,26,240/-
Conventional heads	Rs.70,000/-
medical expenses already awarded by the Tribunal	Rs.1500/-
Total	Rs.5,97,740/-

The award dated 23.05.2012 is modified to the extent that the amount awarded of Rs. 3,33,500/- is enhanced to Rs.5,97,740/-.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the above said terms.

01.02.2018
reema

(AVNEESH JHINGAN)
JUDGE

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