

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

**FAO-10060-2014 (O&M)
Date of Decision:16.07.2018**

Mamta @ Ranjana & others

... Appellants

Versus

Jasvir Singh & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. K. Vardhan Verma, Advocate for
Mr. Sandeep Kotla, Advocate for the appellants.

Mr. S.S. Sahu, Advocate for respondent No.2.

Mr. Anshul Sharma, Advocate for
Mr. Vikas Mohan Gupta, Advocate for respondent No.3.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

This is claimant's appeal seeking enhancement of compensation.

2. Brief facts are that a claim petition under Section 166 of the Motor Vehicles Act was filed before the Motor Accident Claims Tribunal, Fatehabad seeking compensation to the tune of Rs.25 lakhs on account of death of Kuldeep Singh in a motor vehicle accident that occurred on 24.04.2012. Claimants were the widow, minor son and parents of the deceased. Case set up was that on 24.04.2012, while Kuldeep Singh (since deceased) was proceeding on a motorcycle, he was struck by a vehicle bearing registration No.HR-59-8881 being driven in a rash and negligent manner by Jasvir Singh. Kuldeep Singh succumbed to the injuries that he suffered. FIR No.178, dated 24.04.2012 for offence punishable under Sections 279/304-A IPC was registered against Jasvir Singh at Police Station City Fatehabad. Claimants stated that Kuldeep Singh was 29 years of age

and used to earn Rs.15,000/- per month as he was a partner in a garments shop i.e. M/s Om Weaver.

3. Claim petition was contested by the respondents i.e. driver/owner and Insurance Company by filing separate written statements.

4. Upon the pleadings of the parties, the following issues were framed by the Tribunal:

“1. Whether the occurrence involving vehicle bearing registration No. HR-59/8881 took place due to rash and negligent driving by Jasvir Singh respondent and in which Kuldeep Singh received serious and multiple injuries and which proved fatal for him? OPP

2. If issue No.1 is proved in affirmative, whether the claimants are entitled to claim any amount of compensation, how much and from whom? OPP

3. Whether there was violation of terms and conditions of policy of insurance? OPR

4. Relief?”

5. As regards issue No.1, findings were returned in favour of the claimants and it was held that Kuldeep Singh died on account of injuries suffered in the accident on account of rash and negligent driving of respondent No.1/Jasvir Singh.

6. On issues No.2 and 3, Tribunal has taken the age of the deceased to be between 25-30 years. Income has been assessed as Rs.58,00/- per month. A deduction of 1/3rd has been made towards personal and living expenses of the deceased. Multiplier of 17 has been applied and the compensation amount has been assessed as Rs.11,83,200/-. In addition thereto, a sum of Rs.10,000/- has been awarded towards funeral expenses. A total compensation amount of Rs.11,93,200/- along with interest at the rate

of 9% per annum from the date of filing of the claim petition till the actual realization has been awarded.

7. The only issue that has been raised in the instant petition is with regard to quantum of compensation.

8. Counsel for the parties have been heard at length.

9. In the claim petition, age of deceased Kuldeep Singh was mentioned as 29 years. In the Post Mortem Report, Ex.P5, age mentioned is 30 years. The Tribunal, as such, has correctly taken the age of the deceased between 25-30 years.

10. Claimants had asserted that deceased was earning Rs.15,000/- per month by running a ready-made garments shop being the partner in M/s Om Weaver at Balmiki Chowk, Fatehabad. However, no evidence was adduced in the nature of accounts book etc. to substantiate such claim. Accordingly, Tribunal has taken income of the deceased to be Rs.5800/- per month i.e. the minimum wages that an unskilled worker would have earned at the relevant point of time. The same does not call for any interference.

11. The Tribunal, however, has granted an increase of income at the rate of 50% towards future prospects. Since, it was a claimant's case themselves that the deceased was self employed, increase in income towards future prospects ought to have been taken at 40%. It is so directed.

12. Deceased is survived by a widow, minor son and aged parents. Under such circumstances, the deduction from the monthly income ought to have been taken as $\frac{1}{4}$ th instead of $\frac{1}{3}$ rd as has been done by the Tribunal. It is so directed. Keeping in view the age of the deceased as 25-30 years, the multiplier of 17 has been correctly applied.

13. Tribunal has erred in not awarding any amount towards loss of

consortium as also loss of estate. Accordingly, while following the dictum laid down by the Apex Court in **National Insurance Company Limited Vs. Pranay Sethi & others,2017 (4) RCR (Civil) 1009**, a lump sum amount of Rs.70,000/- is awarded towards loss of consortium, loss of estate and funeral expenses.

14. In view of the above, the compensation amount is re-assessed in the following terms:

Sr. No.	Head	Calculation
1.	Income 5800/- (as assessed by the Tribunal)	Rs.5800 + 40% increase in future prospects = 8120/-
2.	1/4 th deduction towards personal and living expenses of the deceased.	Rs.8120 - 2030 = Rs.6090/- Rs.6090 x 12 =Rs.73,080/-
3.	Compensation after applying multiplier of 17	Rs.73,080 x 17 =Rs.12,42,360/-
4.	Conventional Heads: loss of consortium, loss of estate and funeral expenses.	Rs.70,000/-
5.	Total	Rs.13,12,360/-

15. It is directed that the revised compensation amount be released in favour of appellant No.1, namely, Mamta @ Ranjana being the widow as also the mother and natural guardian of appellant No.2 along with interest at the rate of 6% per annum from the date of filing the instant appeal and upto actual realization.

16. Appeal is allowed in the aforesaid terms.

16.07.2018
harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- i)

Whether speaking/reasoned?

Yes/No
- ii)

Whether reportable?

Yes/No