

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

210-A

**CM No.4167-68-CII of 2014 in/and
FAO No.1257 of 2014 (O&M)
Date of Decision : 12.09.2018**

Harpreet Kaur and others

..... Appellants

Versus

Jagtar Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. S.K.Bawa, Advocate for
Mr. K.S.Sidhu, Advocate
for the appellants.

Mr. V.K.Garg, Advocate for
Mr. Rajinder Singh Dhaliwal, Advocate
for respondents No.1 and 2.

Mr. Rajbir Singh, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

CM No.4167-68-CII of 2014

For the reasons recorded, the applications are allowed. Delay of 42 days in re-filing the appeal and delay of 38 days in filing the appeal is condoned.

FAO No.1257 of 2014

This is an appeal for enhancement of compensation and for modifying the award dated 23.03.2013 passed by the Motor Accident Claims Tribunal, Bathinda granting compensation of Rs.6,25,000/- and

conditional interest @ 9% per annum in favour of the appellants and against the respondents.

The brief facts of the case are that on 05.03.2011, Jagsir Singh @ Bawa Jagsir Singh (deceased) along with his brother Ram Kishan were coming to Bathinda. Alto car bearing registration No.PB-034-T-4814 was being driven by the deceased. At about 8.00 p.m. when they reached near flyover, ITI Chowk Bathinda, a truck/trailer bearing RC No.PB-11AE-8298 being driven by respondent No.1 at a very fast speed and in a rash and negligent manner came from the side of flyover and struck against the Car. He was rushed to the hospital where he expired on 21.03.2011. The respondent No.2 escaped from the scene. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

It had come in evidence that the deceased was an agriculturist and that he was also driving a car when the accident had taken place. In the circumstances, he had to be taken as a skilled labourer. Wages for a skilled labourer as per the minimum wages prescribed at that relevant time in Punjab were Rs.5,253/- per month. The same is accepted.

Counsel for the appellants has argued that in view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 40% had to be awarded on account of future prospects. Counsel for the respondents are not in a position to deny this. It is held that 40% has to be awarded towards future prospects.

Counsel for the appellants further states 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 had to be applied instead of 14. Counsel for the respondents are not in a position to deny this also. It is held that multiplier of 17 has to be applied instead of 14. Since there are four claimants-LRs the deduction would be 1/4th.

Further counsel for the appellants has argued that the Tribunal has awarded Rs.10,000/- under conventional heads and as per the judgment passed in ***Pranay Sethi (supra)*** the compensation of Rs.60,000/- more should be awarded. I find this to be indeed so. Consequently, I grant Rs.60,000/- more under conventional heads.

Further I find that he was moved from one hospital to another and remained in hospital from 06.03.2011 to 21.03.2011. Nothing has been awarded on account of pain and suffering, attendant charges and special diet for those 16 days and only an amount of Rs.11,000/- has been awarded for transportation charges. I award an amount of Rs.32,000/- on account of pain and suffering etc.

Counsel for the appellant has further pointed out that in the original award conditional interest has been imposed @9%. I find it to be correct and consequently, direct that the entire amount would carry interest @ 7.5% from the date of filing of claim petition till the date of payment.

Out of the enhanced amount 20% would go to the appellants Nos.2, 3 and 4 each while remaining 40% would go to appellant No.1. The share of the minors would be put in a fixed deposit and would be released only after they attain the age of majority.

Appeal is allowed 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.

12.09.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

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