

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

FAO No. 1599 of 2014 (O&M)
Date of decision : August 06, 2018

Roshini Kaur and others

..... Appellants

v.

Bhag Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Surinder Kaur, Advocate
for the appellants.

Ms. Priya Deep, Advocate
for Mr. Ashwani Talwar, Advocate
for respondent No.2.

Ajay Tewari, J (Oral)

C.M No.5361 CII of 2014

For the reasons recorded, this application is allowed and delay
of 340 days in re-filing the appeal is condoned.

FAO No.1599 of 2012

This appeal has been filed by the claimants for enhancement.

Brief facts are that on 30.6.2010, the deceased Hardyal Singh
was going from Rajpura to his village on a motor cycle and when he
reached near the crossing of village Khadoli, he stopped his motor cycle to
take a turn towards his village and in the meanwhile, the offending vehicle
being driven by respondent No.1 came from Rajpura side in a rash and
negligent manner and struck against the motor cycle and as a result of this

accident, the deceased fell down and suffered multiple injuries and died at the spot. Hence the claim petition was filed.

The Tribunal held respondent No.1 responsible for causing the accident and took the age of the deceased as 50 years on the basis of the post mortem report. Monthly income of the deceased was assessed as ₹ 6000/- and after applying the multiplier of 8, total compensation came to be ₹ 3,84,000/-. In addition, a sum of ₹ 5000/- for funeral and ₹ 5000/- on account of loss of consortium were also awarded. Rate of interest was awarded as 7.5% pa.

Counsel for the appellants states that the age of the deceased was 46 years as per the driving licence which was placed on record but the Tribunal erred in taking his age as 50 years on the basis of post mortem report. As per her, the age which is taken at the time of post mortem is just a rough indication. Counsel for respondent No.2-Insurance Company is not in a position to deny this. In the circumstances, age of the deceased is taken as 46 years. As per of the decision of the Supreme Court in Sarla Verma and others vs Delhi Transport Corporation and another, AIR 2009 (SC) 3104, multiplier would be 13 instead of 8.

Counsel for the appellants has further argued that where there are five dependents, deductions had to be not more than 1/4th. Counsel for the respondent is not able to deny this fact also. I hold so.

Counsel for the appellants has further argued that in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, future prospects should be 25%, and that under conventional heads, only a sum of ₹ 10,000/- has been awarded, whereas a sum of ₹ 60,000/- more should be awarded.

Counsel for respondent No.2 does not dispute this. Consequently, I grant 25% as future prospects and award ₹ 60,000/- more under conventional heads. Interest rate would remain the same.

Counsel for respondent No.2, however, points out that the Tribunal has not apportioned the amount and by implication it would mean that all the claimants were equally entitled to the compensation amount. I find that all the children are major. In the circumstances, I hold that out of the enhanced amount, 40% would be the share of appellant No.1, 20% each would be the share of appellants No.2 and 3, while 10% each would be the share of appellants No.4 and 5. With this modification in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 06, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No