

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

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**FAO-1104-2015 (O&M)
Date of Decision : 9.10.2018**

Bijender and others

....Appellants

vs.

Suresh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vikas Kumar, Advocate
for the appellants.

Ms. Shamsheer Kaur, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 17.3.2012 passed by Motor Accident Claims Tribunal, Palwal awarding compensation of Rs. 3,22,000/- alongwith interest at the rate of 7% per annum on account of death of Pitamber in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Counsel for the appellants has stated that nothing has been awarded for future prospects. Counsel for the insurance company has pointed out that on notional income future prospects could not have been granted. Counsel for the claimants has rebutted this argument by saying that even if future prospects cannot be granted on notional income similarly deduction also cannot be made. I find merit in both the arguments.

In the circumstances, the appeal is allowed to the extent that the income of the deceased is taken to be Rs. 4000/- per month and there would be no future prospects and no deduction.

Second argument raised by the learned counsel for the appellants is 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 18 has to be applied instead of 13 (taken as per the age of the mother of the deceased). Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 18 has to be applied instead of 13.

Learned counsel for the appellants has stated that under the conventional heads Rs. 10,000/- has been granted and cited the judgment of the Supreme Court passed in the matter of ***Sureshchandra BagmalDoshi and Anr. vs. New India Assurance Company Limited and others*** reported as ***2018 (2) RCR (Civil) 841*** where the widowed daughter had died and the Supreme Court held as follows :-

“14. Now coming to the last aspect, i.e., the conventional heads, in National Insurance Company Limited(supra), it has been standardized at Rs.15,000 for loss of estate; Rs.40,000 towards loss of consortium (in the present case loss of love and affection) and Rs.15,000 towards funeral expenses. The total amount, thus, would be Rs.70,000, which as per the said judgment is capable of being enhanced @ 10 per cent in the span of every three years. However, we are still within the window of three years.”

Having gone through the judgment, I find that their Lordships considered the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others,***

2017(4) RCR (Civil)1009. Consequently, I grant a sum of Rs.60,000/- more under the conventional heads.

Counsel for the appellants has further pointed out that in the judgment titled as “*Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others*” in *Civil Appeal No. 9581 of 2018* decided on 18.9.2018 the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

It is made clear that the appellants would not be entitled to interest for the period of delay in filing the appeal. It is directed that the entire amount will go to the mother.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

9.10.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No