

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-1987-2014 (O&M)

Date of Decision:06.03.2018

Rajni Devi and others

.....Appellants

Versus

Gurmeet Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Satinder Pal Singh, Advocate for
Mr. Jagram Singh Cooner, Advocate,
for the appellants.

Mr. Lalit Garg, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

CM-7222-CII-2014

For the reasons stated in the application, same is allowed and
the delay of 21 days in filing the appeal is condoned.

FAO-1987-2014

The appellants-claimants have filed the present appeal seeking
enhancement of compensation awarded by the learned Motor Accident
Claims Tribunal, Yamuna Nagar at Jagadhri (for short “the Tribunal”) vide
award dated 01.10.2013.

Briefly stated on 09.03.2011, Naresh Kumar (since deceased)
was returning home on a motorcycle bearing registration No.HR-02G-0388
along with his cousin brother, who was a pillion rider. At about 6.30 p.m.
after crossing village Barsu Majra, when they reached near a petrol pump,

the offending car bearing registration No.HR-01R-0787 driven by respondent no.1 was coming in a rash and negligent manner at an uncontrollable speed. On seeing the car, the deceased had taken his motorcycle to the extreme left side of the road but the driver of the offending car brought his vehicle to the wrong side and hit the motorcycle. Both the occupants of the motorcycle sustained injuries in the accident and the motorcycle was also damaged. The injured were taken to Civil Hospital, Naraingarh by Manjit Singh, resident of village Loto, with the help of persons gathered on the spot. Naresh Kumar was given first aid and was referred to PGI, Chandigarh but on reaching there, the concerned doctor declared him as brought dead.

In a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Naresh Kumar in the motor vehicular accident, which took place on 09.03.2011, the Tribunal has awarded a total compensation of ₹8,12,720/- along with interest @ 7.5% per annum from the date of institution of the claim-petition till its realization to the claimants.

Not satisfied with the compensation awarded by the Tribunal, the appellants-claimants have filed the present appeal for enhancement of compensation.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the claimants.

Learned counsel for the appellants has argued that deceased Naresh Kumar was aged about 27 years at the time of accident. He being a skilled worker was earning ₹4,893/- per month as minimum wages on the date of accident. The Tribunal has not awarded compensation under the

head of future prospects, as held by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others,** 2017 (4) R.C.R (Civil) 1009. Similarly, the Tribunal has awarded less compensation under the conventional heads. As against the admissible amount of ₹70,000/-, the Tribunal has just awarded ₹20,000/- under the conventional heads, which includes ₹10,000/- on account of loss of consortium, ₹5,000/- towards loss of estate and ₹5,000/- on account of funeral expenses. Therefore, the present appeal deserves to be allowed and the amount awarded by the Tribunal is required to be enhanced.

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that adequate compensation has already been granted to the claimants. He has further argued that wrong multiplier has been applied. Deceased Naresh Kumar was 27 years of age at the time of accident and therefore, the Tribunal was required to apply multiplier 17 instead of 18.

I have heard the learned counsel for the parties.

So far as the claim of the appellants for enhancement of compensation under the head of future prospects is concerned, this Court finds that deceased Naresh Kumar was 27 years of age and self-employed on fixed wages, the Tribunal was required to add 40% towards the future prospects. Similarly, the Tribunal was also required to award total compensation of ₹70,000/- under the conventional heads. The claimants are held entitled to compensation by applying multiplier 17 instead of 18 as the deceased was about 27 years at the time of accident.

Accordingly, on the basis of future prospects so assessed, this

Court finds that the claimants are held entitled for compensation in the

following manner:-

Monthly income	:	₹4,893.00
Future prospects (40%)	:	₹1,957.20
Total monthly income	:	₹6,850.20
Annual income	:	₹82,202.40
Deductions (1/4th)	:	₹61,651.80
Total loss of dependency (₹61,651.80 x 17)	:	₹10,48,080.60
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation :		₹11,18,080.60
Amount already awarded :		₹8,12,720.00

Enhanced amount	:	₹3,05,360.60
Rounded off	:	₹3,05,361/-

The claimants shall be held entitled to interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

March 06, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No