

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

FAO-2018-2014

Date of Decision:29.01.2018

**Smt. Chandrawali @ Chandrawati
and another**

.....Appellants

Versus

Mukesh Kumar and others

.....Respondents

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

**Present: Ms. Bhagyashri, Advocate for
Mr. Vinod S. Bhardwaj, Advocate,
for the appellants.**

**Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.**

HARI PAL VERMA, J.(Oral)

Appellants-claimants have filed the present appeal for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Narnaul (for short “the MACT”) vide award dated 23.12.2013.

The claimants have filed a claim-petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Deepak Kumar, who died in a motor vehicular accident, which took place on the intervening night of 8/9.05.2013. On the relevant date, the deceased along with Manoj Kumar after taking tea was coming from railway station, Mohindergarh to the ready-made cloth shop of Naveen Kumar on a motorcycle bearing registration No.HR-19C-6169, where they were

working as Carpenters. The deceased was driving the motorcycle and was on his extreme left side of the road, at a moderate speed, observing all traffic rules. At about 1.00 a.m., when the deceased along with his co-passenger Manoj Kumar reached near Canal (nahar) Colony, Mohindergarh, another jeep bearing registration No.HR-34-9594 being driven by respondent Mukesh Kumar, at a high speed, in a rash and negligent manner came and hit against the motorcycle being driven by the deceased. As a result of this accident, Deepak Kumar and his co-passenger Manoj Kumar fell down and sustained injuries on their person. Deepak Kumar died in the said accident. The learned MACT vide award dated 23.12.2013 awarded a total compensation of ₹2,63,000/- on account of death of Deepak Kumar along with interest @ 7.5% from the date of filing of the claim-petition till its realization.

Learned counsel for the appellants has argued that deceased Deepak Kumar was 21 years of age and the learned MACT has applied the wrong multiplier of 9 instead of 18. Similarly, deceased Deepak Kumar was working as a Carpenter and therefore, he fell within the category of a 'skilled labour'. The MACT has also wrongly taken the income of deceased as ₹4,500/- whereas the minimum wages for skilled labour for the year 2013 was ₹5,602/- per month and with the passage of time, income should have been increased. Contrary to what has been held in **National Insurance Company Limited Versus Pranay Sethi and others**, 2017 (4) R.C.R (Civil) 1009, no amount of compensation has been awarded towards conventional heads and therefore, impugned award is liable to be modified and higher compensation is required to be awarded.

On the other hand, learned counsel for respondent No.3-

Insurance Company has argued that adequate compensation has been granted. The claimants have failed to prove that the deceased was a skilled labour. Therefore, his income is required to be considered as that of an unskilled worker as there is no evidence that the deceased was working as a Carpenter except the bald statement made by claimant No.1.

I have heard the learned counsel for the parties.

The deceased Deepak Kumar died in the motorcycle accident, which took place on the intervening night of 8/9.05.2013, is not in dispute. He was 21 years of age and therefore, his case was required to be considered by applying multiplier of 18. As held in the case of **Pranay Sethi (supra)**, while awarding compensation under the Motor Vehicles Act, the age of the deceased is required to be considered and not of the claimants. Similarly, as on the relevant date, the income of an unskilled worker though was ₹5,212/- per month but that income was on the basis of Notification issued on 22.02.2013. But taking into consideration the statement made by claimant No.1 and the fact that deceased Deepak Kumar as well as his co-passenger Manoj Kumar were working Carpenters in a shop, her statement cannot be doubted. A Carpenter does fall in the category of skilled labour.

Accordingly, income of the deceased is being considered as ₹6,000/- per month and on the basis of this income so assessed by this Court and with the assistance of learned counsel for the parties, following admissible chart of compensation is prepared:-

Monthly income	:	₹6,000/-
Future prospects (40%)	:	₹2,400/-
Total monthly income	:	₹8,400/-
Annual income	:	₹1,00,800/-
Deductions (50%)	:	₹50,400/-

Multiplier (₹50,400 x 18)	:	₹9,07,200/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-

Total amount of compensation :		₹9,37,200/-
Amount already awarded :		₹2,63,000/-

Enhanced amount :		₹6,74,200/-

Since the claimants have already been awarded an amount of ₹2,63,000/-, this amount is required to be deducted from the total amount of compensation as assessed above.

Accordingly, the claimants are entitled for enhancement of compensation of ₹6,74,200/- over and above the compensation already awarded by the learned MACT, which shall carry interest @ 7.5% per annum as awarded by the Hon'ble Apex Court in Pranay Sethi's case (supra) from the date of filing of the claim-petition till its realization.

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

January 29, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No