

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

FAO No.1648 of 2015.

Decided on:-February 23, 2018.

Snehlata and others

.....Appellants.

Versus

Manoj Kumar and others

.....Respondents.

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

Present:- None for the appellants.

Mr. Amit Yadav, Advocate for
Mr. S.K. Yadav, Advocate
for respondents No.1 and 2.

Mr. D.R. Bansal, Advocate
for respondent No.3-insurance company.

HARI PAL VERMA, J. (Oral)

The appellant-claimants have filed the present appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Rewari (for short, the Tribunal) vide award dated 03.12.2014.

Vide the impugned award, the Tribunal has awarded total compensation of Rs.12,59,208/- along with interest @ 6% per annum to the appellant-claimants on account of death of Sunil Kumar, who was the husband of claimant No.1 and father of minor claimants No.2 and 3, and died in a motor vehicular accident which took place on 06.09.2013 in the area of Police Station Khol, District Rewari.

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

No one is present on behalf of the appellant-claimants, though on the previous date of hearing i.e. January 24, 2018, the case was ordered to be listed in the urgent list for today.

I have heard learned counsel for the respondents and perused the case file.

Perusal of the impugned award dated 03.12.2014 passed by the Tribunal shows that the deceased was an ex-serviceman and was an agriculturist. After the accident on 06.09.2013, he was admitted in SMS Hospital, Jaipur, where he succumbed to his injuries on 17.09.2013. The Tribunal has observed that the claimants have proved on record that they had spent a sum of Rs.44,786/- on the treatment of deceased Sunil Kumar.

Though the claimants have claimed that deceased Sunil Kumar was getting pension of Rs.9,233/- per month being ex-serviceman and was also earning Rs.20,000/- per month as he was an agent of PACL. Besides this, the deceased was also earning Rs.1,00,000/- per annum from the agricultural work. However, the Tribunal has assessed the income of deceased Sunil Kumar as Rs.9,233/- per month as he was an ex-serviceman and was getting pension. However, the Tribunal has held that the claimants have failed to prove on record other income which the deceased was earning from agriculture work or as an agent of PACL India Limited.

Considering the age of deceased as 42 years at the time of his death, the Tribunal deducted 1/3rd amount towards personal expenses of the deceased. Accordingly, the monthly dependency of the claimants was assessed by the Tribunal as Rs.6,156/- per month and a multiplier of '14' was applied. In this manner, the compensation of Rs.10,34,208/- (6156 x 12 x 14) was awarded by the Tribunal towards loss of dependency. The Tribunal has also awarded a sum of Rs.1,00,000/- as loss of consortium, Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of guidance and social security. Thus, the total compensation of Rs.12,59,208/- was awarded by the Tribunal.

This Court has looked into the case file and having recourse to the judgment passed by Hon'ble Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and others 2017(4) RCR (Civil) 1009*** finds that the impugned award dated 03.12.2014 needs to be modified to the extent that (i) no amount has been awarded to the claimants under the head of future prospects; (ii) the medical expenses of Rs.44,786/-, have not been included in the total compensation amount, though there is a reference in the impugned award that the claimants have spent this amount on the treatment of the deceased; and (iii) the amount awarded under the conventional heads also needs to be re-looked.

Learned counsel for respondent No.3-insurance company has been fair enough to state that considering the age of the deceased as 42 years, the appellant-claimants were entitled to 30% addition in the income of deceased towards future prospects. Similarly, the amount of Rs.44,786/- spent

on the treatment of the deceased was required to be added in the compensation, which the Tribunal has left out probably by mistake. Further, the amount of Rs.2,25,000/- awarded by the Tribunal under conventional heads is required to be restricted to Rs.70,000/- in view of the judgment of Hon’ble Supreme Court in *Pranay Sethi and others’ case (supra)*.

In view of the above, this Court finds that the award passed by the Tribunal needs modification and the appellant-claimants are required to be awarded compensation in accordance with the following tabulated form:

Monthly income of deceased.		Rs.9,233/-
Future prospects.	(30% of Rs.9,233/-)	Rs.2,770/-
Total monthly income.	(9233+2770)	Rs.12,003/-
Annual income.	(12,003 x 12)	Rs.1,44,036/-
Deduction towards personal expenses of deceased.	(1/3 rd of annual income)	Rs.48,012/-
Annual dependency of the claimants.	(1,44,036 – 48,012)	Rs.96,024/-
Multiplier.	(as already applied by the Tribunal)	‘14’
Total loss of dependency.	(96,024 x 14)	Rs.13,44,336/-
Medical Expenses	(left out by the Tribunal)	Rs.44,786/-
Conventional heads	Loss of estate	Rs.15,000/-
	Funeral expenses	Rs.15,000/-
	Loss of consortium	Rs.40,000/-
Total amount of compensation.	(13,44,336+44,786+ 15,000 + 15,000 + 40,000)	Rs.14,59,122/-
Amount already awarded by the Tribunal.		Rs.12,59,208/-
Enhancement.	(14,59,122 – 12,59,208)	Rs.1,99,914/-

Further, in view of the judgment passed in ***Pranay Sethi and others' case (supra)***, the rate of interest awarded by the Tribunal i.e. 6% per annum is also modified to 7.5% from the date of filing of the claim petition till its realization.

Accordingly, the present appeal is disposed of and the award dated 03.12.2014 passed by the Tribunal is modified to the aforesaid extent. Consequently, the appellant-claimants are awarded total amount of compensation of Rs.14,59,122/- (Rupees fourteen lakhs, fifty nine thousand, one hundred and twenty two). The amount of compensation awarded by the Tribunal shall be deducted from the compensation assessed by this Court.

February 23, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No