

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

**F.A.O. No.3991 of 2013
Date of Decision: 03.04.2018**

Smt. Jaswant Kaur & others

....Appellant (s)

Versus

Kiran Pal & others

Respondent(s)

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

Present:- Mr. Ishan Cooner, Advocate for
Mr. J.S. Cooner, Advocate
for the appellant(s).

Mr. Vikas Mohan Gupta, Advocate
for respondent no.3-Insurance Company.

HARI PAL VERMA, J. (Oral)

The appellant-claimants have filed the present appeal seeking enhancement of compensation over and above the amount of compensation so granted by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as “the Tribunal”) vide award dated 15.05.2013.

On a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of Baljit Singh who was about 56 years of age, who died in a motor vehicular accident which took place on 15.12.2010, the Tribunal had awarded a total compensation of Rs.8,37,040/- along with interest @ 7.5%.

Not satisfied with the aforesaid award, the claimants have filed the present appeal seeking enhancement of the compensation as awarded by the Tribunal.

The accident and other liabilities are not in dispute in the present appeal. What is in dispute is the quantum of compensation awardable to the appellant-claimants.

Learned counsel for the appellant-claimants has confined his arguments to the quantum of compensation only. He has argued that the deceased Baljit Singh was working in PWD B&R Department of the State of Punjab and was posted at Mubarakpur. He was 56 years of age at the time of his death and therefore, in view of judgment of Hon'ble the Apex Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009**, the claimants are entitled for compensation under the head 'future prospects' as well as compensation under 'other conventional heads'. Moreover, deceased being 56 years of age, the multiplier of '9' was required to be applied instead of '5', as per the judgment of Hon'ble the Apex Court in the case of **Sarla Verma & Ors vs Delhi Transport Corp and another (2009) 6 SCC 121**.

On the other hand, learned counsel for the respondent-Insurance Company has not disputed the fact that the deceased was 56 years of age and was working in PWD B&R Department of the State of Punjab. However, he has argued that the Tribunal has already awarded adequate compensation to the claimants and therefore, there is no further scope for its enhancement.

I have heard learned counsel for the parties and perused the impugned award.

There is no dispute that the deceased Baljit Singh was of 56 years of age and was employed in PWD (B&R), Patiala. He died in a motor

vehicular accident which took place on 15.12.2010. Therefore, in view of law laid down by Hon’ble the Apex Court in the case of **Pranay Sethi** (*supra*), the claimants are also entitled for addition in income under the head ‘future prospects’ @ 15% apart from a total sum of Rs.70,000/- under the other conventional heads i.e. Rs.15,000/- towards ‘funeral expenses, Rs.15,000/- towards ‘loss of estate’ and Rs.40,000/- towards ‘loss of consortium’ instead of Rs.5,000/- each under the heads ‘funeral expenses and ‘loss of consortium’, as awarded by the Tribunal. However, this enhancement of 15% of income shall be subject to deduction of income tax, as applicable at the relevant time. At the time of his death, since the deceased was 56 years of age, the multiplier of ‘9’ was required to be applied instead of ‘5’, as per the judgment of Hon’ble the Apex Court in the case of **Sarla Verma** (*supra*).

Accordingly, with the assistance of both the counsel, this Court has calculated the total compensation, payable to the appellant-claimants, as under:-

<u>S.No.</u>	<u>Heads</u>		<u>Calculation (₹)</u>
1	Monthly Income		20,677.00
2	Future prospects	15%	3,101.00
3	Total monthly income (<i>monthly income + future prospects</i>)		23,778.55
4.	Annual Income (<i>Total monthly income x 12</i>)		2,85,342.60
5.	Income Tax (on future prospects)		3,722.00
6.	Annual income (after tax deduction)		2,81,620.60
7.	Deductions towards personal expenses of deceased	1/3	93873.33

8.	Annual dependency		1,87,747.07
9	Multiplier	9	
10.	Total loss of dependency		16,89,723.60
	Loss of Estate:	:	15,000.00
	Funeral expenses	:	15,000.00
	Loss of Consortium	:	40,000.00
11.	Total amount of compensation		17,59,723.60
12.	Amount already awarded		8,37,040.00
13.	Total Enhancement		9,22,683.60

Accordingly, the present appeal is allowed. The impugned award is modified to the extent that the appellant-claimants shall be entitled for enhanced amount of Rs.9,22,683.60 over and above the amount of compensation already granted to them. It is further ordered that the enhanced amount of compensation shall be released to the claimants in same proportion and manner as granted by the Tribunal and this enhancement shall fetch interest @ 7.5% per annum from the date of filing the claim petition till its realization.

April 03, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No