

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

FAO No. 2648 of 2015 (O&M)

Date of decision : July 13, 2018

Kulwant Kaur and others

.....Appellants

Versus

Sushil Kumar and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Pradeep Kumar, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') on account of death of Jaswinder Singh vide award dated 13.01.2015.

Brief facts necessary for adjudication of the case are that the claimants, who are the parents and unmarried sister of the deceased namely Jaswinder Singh, filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Jaswinder Singh on 29.05.2014 in a motor vehicle accident caused due to rash and negligent driving of the offending Bolero Pickup Jeep bearing registration No. PB-11-BK-2880 driven by respondent No.1. FIR No. 77 dated 30.05.2014 under Sections 279, 304A, 427 IPC was registered at Police Station Shambhu, District Patiala in respect to the accident.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 29.05.2014 due to rash and negligent driving of the offending Bolero jeep bearing registration

No. PB-11-BK-2880 driven by respondent No. 1. This finding of the learned Tribunal has attained finality. Learned Tribunal awarded a sum of ₹8,37,800/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹6,600/- per month. Deduction of 50% was effected. Multiplier of 18 was applied as the deceased was 23 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of love and affection was awarded besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that the deceased was admittedly 23 years old at the time of death. No compensation has been awarded on account of future prospects. It is, however, conceded that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, compensation awarded under the conventional heads is required to be reworked. It is prayed that compensation awarded to the claimants be enhanced.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed and the impugned award dated 13.01.2015 be upheld.

Heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute that Jaswinder Singh was 23 years old at the time of the accident which took place on 29.05.2014. His date of birth, as per certificate of Board of Secondary Education, Delhi (Ex.P4), is 14.07.1991. The deceased had studied upto 10+2. There is no documentary evidence on record, to indicate any income earned by him. Accordingly, income of the deceased has been rightly assessed as ₹6,600/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), compensation on account of loss of future prospects at the rate of 40% (₹2,640/-) is required to be awarded in view of the age of the deceased (23 years). Thus, income of the deceased is assessed as ₹9,240/- per month. Deduction of 50% is to be applied in view of the guidelines of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, thereby rendering income of the deceased to be ₹4620/-. Multiplier of 18 is correctly applied. Annual dependancy of the claimants is, therefore, assessed as ₹9,97,920/- (₹4620x12x18). The claimants are also entitled to ₹15,000/- each on account of loss of estate and loss of love and affection and ₹15,000/- for funeral expenses. The amount of compensation under the head of loss of love and affection and funeral expenses is, therefore, modified as above.

Claimants are, thus, entitled to total compensation of ₹10,67,920/- detailed as under:-

Loss of dependency (4620x12x18)	₹9,97,920/-
Loss of estate, love and affection (@15,000/- each) (15,000 x 3)	₹45,000/-
Funeral expenses	₹15,000/-
Total	₹10,67,920/-

The amount of compensation already awarded to the appellants,

needless to say, shall stand deducted from the amount calculated as above.

Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

July 13, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No