

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

FAO No.4392 of 2014 (O&M)

Date of Decision: January 10, 2018

Leelawati Devi and another	...Appellants
Versus	
Ajit Pal Singh and others	...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Ms.Amandeep Kaur, Advocate for
Mr.Ashwani Arora, Advocate for the appellants.
Mr.V.B.Aggarwal, Advocate for respondent No.6.
Mr.Gopal Mittal, Advocate for respondent No.7.

HARINDER SINGH SIDHU, J.

This is the claimant appeal for enhancement.

The appellants filed the claim petition under Section 166 of the Motor Vehicles Act, claiming compensation on account of the death of Tufani Yadav who met with an accident on 5.9.2008 and died on 6.9.2009 due to injuries suffered in the accident. The learned Tribunal on the appreciation of evidence concluded that the accident has been caused due to rash and negligent driving of vehicle No.PB-43-B-2514 by respondent No.1. The income of the deceased was assessed as Rs.4000/- per month. 30% increase was allowed on account of future prospects. As there were two claimants, 1/3rd of the income was deducted on account of personal expenses. As the age of the deceased was 35 years, a multiplier of 16 was applied and the compensation was assessed as Rs.6,65,600/-. Rs.5000/- were awarded on account of loss of estate, Rs.5000/- were granted towards funeral expenses and Rs.10,000/- as loss of consortium. A total

compensation of Rs.6,85,600/- was awarded.

Learned counsel for the appellants has contended that the Tribunal has erred in assessing the income of the deceased as Rs.4000/- per month. In fact, the income of the deceased was Rs.5000/- per month as was clearly deposed by PW-4 Param Hans Kumar, a co-worker of the petitioner. He further argued that compensation on account of funeral expenses and loss of consortium is liable to be enhanced as per the decision of Hon'ble the Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others** SLP (Civil) 25590 of 2014 – **2017 SCC Online SC 1270**.

Having heard learned counsel for the appellants, I am of the view that the income of the deceased is liable to be enhanced to Rs.5000/- per month. The widow of the deceased, Leelawati had specifically stated in her affidavit that the deceased was an electrician. He was working with HSA Project and Marketing, Govt. Contractor and Suppliers, Plot No.136-140/70 Phase I, Industrial Area, U.T. Chandigarh and earning a sum of Rs.5000/- per month. He used to give her a sum of Rs.4000/- per month for meeting the household expenses. PW-4 Param Hans Kumar who was a co-worker with the deceased and working at the same place, in his cross-examination stated that the deceased was working as an electrician with one Pardeep Gutpa and was getting salary of Rs.5000/- per month. The deceased had been working there for the last 10 years and was an experienced electrician. In the face of this, even if the claimants were not able to produce any documentary evidence with regard to the income of the deceased, there was no reason to dispute the assertion by the co-worker of the deceased that he was getting salary of Rs.5,000/- per month. For an electrician with 10 years

experience, an income of Rs.5,000/- per month cannot be considered to be unreasonable. Thus, in my view, the income of the deceased can be taken to be Rs.5000/- per month.

Accordingly, the compensation is assessed as under

Sr.No.	Heads	Calculation (In Rs.)
(i)	Monthly Income	Rs.5,000/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 35 yrs.)	Rs.5000+(5000x40/100) = 7000/-
(iii)	Loss of income (1/3 rd of (ii) deducted as personal expenses of the deceased - two dependants)	Rs.7000-(7000x1/3)= 4666.66 per month
(iv)	Compensation after multiplier of 16 is applied	Rs.4666.66x12x16 = 8,95,998.72 (rounded off at Rs.8,96,000/-)
(v)	Loss of Consortium (Exclusively payable to the widow of deceased)	Rs.40,000/-
(vi)	Loss of Estate	Rs.15,000/-
(vii)	Funeral Expenses	Rs.15,000/-
	Total	Rs.9,66,000/-

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the appellant is held entitled to total compensation of Rs.9,66,000/-, that is, Rs.2,80,400/- (966000-685600) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

January 10, 2018

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No