

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

215 (1)

FAO-5422-2013 (O&M)

Rani and others

.....Appellants

Versus

Amar Singh and others

.....Respondents

(2)

FAO-5861-2013 (O&M)

Rishi Pal and others

.....Appellants

Versus

Amar Singh and others

.....Respondents

Date of Decision:23.04.2018

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

Present: Mr. S.K. Tripathi, Advocate,
for the appellants in FAO-5422-2013.

Mr. Lalit Kumar, Advocate and
Mr. Akash Dalal, Advocate,
for the appellants in FAO-5861-2013.

Ms. Anju Arora, Advocate,
for respondent Nos.1 and 2 in both the appeals.

Mr. M.B. Jain, Advocate and
Mr. Puneet Jain, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

This order shall dispose of two appeals i.e. FAO-5422-2013,

titled as Rani and others Versus Amar Singh and others and FAO-5861-

2013, titled as Rishi Pal and others Versus Amar Singh and others whereas, FAO-5422-2013 has been filed by the claimants i.e. widow and two minor sons, FAO-5861-2013 has been filed by the parents and sister of the deceased Bijender.

As per the claim petition, on 18.08.2012, Bijender (since deceased) was going towards Ballabgarh on his motorcycle bearing registration No.HR-51Z-3790 in connection with the work as assigned by his employer. His uncle Chhaju Ram accompanied by his cousin Rajesh were also going behind on their separate motorcycle bearing registration No.HR-51AK-1719 being driven by Chhaju Ram. When Bijender had reached near Eldico Mall, Sector-12, Mathura Road, Faridabad, the offending vehicle came from Delhi side. It was being driven by its driver, in a rash and negligent manner, at a very high speed. The offending vehicle hit the motorcycle of Bijender (deceased) from behind. As a result thereof, he (Bijender) fell down on the road and the driver side wheel of the offending vehicle ran over the stomach of the deceased. He died at the spot. The driver of the offending vehicle fled away from the spot after leaving the said vehicle. On the statement of Chhaju Ram, FIR No.319 dated 18.08.2012 under Sections 279, 304A IPC was registered in Police Station Central, Faridabad, against respondent No.1 i.e. the driver of the offending vehicle.

In two different claim petitions, as filed by the claimants under Section 166 of the Motor Vehicles Act, 1988, for the grant of compensation on account of death of Bijender, aged 32 years, who died in the motor vehicular accident, which took place on 18.08.2012, the Motor Accident Claims Tribunal, Faridabad, (for short “the Tribunal”) has awarded a total

compensation of ₹6,60,000/- to the claimants in the proportion as mentioned in the award dated 05.08.2013.

Not satisfied with the aforesaid amount of compensation, the claimants have filed two separate appeals as detailed above, seeking enhancement of compensation.

In FAO-5422-2013, learned counsel for the appellants has argued that deceased-Bijender, aged about 32 years, was though getting salary of ₹10,000/- per month, but the Tribunal has assessed the income of the deceased as ₹5,000/- per month. Having applied 1/3rd deduction, the Tribunal has awarded a total compensation of ₹6,60,000/- to the claimants. No amount has been awarded towards future prospects. The amount awarded under the conventional heads is also on lower side as the same has not been granted considering the judgment of the Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009.**

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that the Tribunal has already awarded adequate compensation and there is no scope for further enhancement of compensation in any manner. The claimants which include the widow and two minor sons in FAO-5422-2013 and parents and sister in FAO-5861-2013 have been granted adequate compensation on account of death of Bijender in the accident.

I have heard the learned counsel for the parties.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the claimants. The Tribunal has assessed the income of the deceased as ₹5,000/- and having applied 1/3rd

deduction, has awarded the total compensation of ₹6,60,000/-. As held in **Pranay Sethi's case (supra)**, the claimants are entitled an addition of 40% towards future prospects, but this amount was not granted. Similarly, the Tribunal has awarded an amount of ₹20,000/- i.e., ₹5,000/- towards funeral expenses and another sum of ₹15,000/- on account of loss of consortium, whereas as held in **Pranay Sethi's case (supra)**, this amount has to be ₹70,000/-.

Therefore, by adding 40% amount towards future prospects and addition under conventional head, this Court finds that the claimants are held entitled to compensation in the following manner:-

Monthly income	:	₹5,000/-
Future prospects (40%)	:	₹2,000/-
Total monthly income	:	₹7,000/-
Annual income	:	₹84,000/-
Annual dependency (after 1/3 rd deduction)	:	₹56,000/-
Total loss of dependency (₹56,000/- x 16)	:	₹8,96,000/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation :	₹9,66,000/-
Amount already awarded :	₹6,60,000/-

Enhanced amount : ₹3,06,000/-

Out of the enhanced amount, an amount of ₹50,000/- will go to the mother, ₹25,000/- to the father, ₹25,000/- to the sister-the appellants in FAO-5861-2013 and the remaining amount of ₹2,06,000/- will go to the widow and two minor sons-appellants in FAO-5422-2013.

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of claim-petition till its realization.

With the aforesaid modification in the award, both the appeals stand disposed of.

April 23, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No