

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-5185-2014 (O&M)
Date of Decision: 31.07.2018

Ms. Satinder Kaur

--Appellant

Versus

Shri Gurnam Singh & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. D.P. Sharma, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for respondent
no.2-Insurance Co.

TEJINDER SINGH DHINDSA.J (Oral)

This is claimant's appeal seeking enhancement of compensation.

Brief facts that may be noticed are that on 18.2.2013 claimant/appellant herein Satinder Kaur along with her family members namely Jasbir Singh (husband), Harmeet Singh (son), Mankinder Kaur (daughter) and Gurdeep Singh (son) were returning from village of sister of the claimant and proceeding to their residence in Manimajra in a Maruti car bearing registration no. CH-03-A-8833 being driven by Jasbir Singh (husband). At about 6 A.M when the family reached near Civil Hospital, Kurali, a truck bearing registration no. PB-12-N-0181 (to be referred to as the offending vehicle) came from the opposite side being driven in a rash and negligent manner and collided with the car. As a result of the accident, claimant's husband Jasbir Singh, son Harmeet Singh and daughter Mankinder Kaur died on the spot. Claimant herself and another son Gurdeep Singh suffered serious injuries and were referred to P.G.I., Chandigarh. Gurdeep Singh also succumbed to the injuries suffered during the course of treatment at P.G.I, Chandigarh on 22.2.2013.

Claim Petition No.1151 of 2013 was filed under Section 166 of the Motor Vehicle Act in the M.A.C.T., Chandigarh claiming just and adequate compensation on account of death of Harmeet Singh i.e. son of the claimant.

Claim petition having been contested, the following issues were framed by the Tribunal:-

“1. Whether deceased died on account of injuries sustained by him in a road accident, which took place on 18.02.2013 due to rash and negligent driving of truck No.PB-12-N-0181 by its driver-respondent no.1?OPP

2. Whether claimant is entitled to any amount as compensation, if so, what amount and from whom?OPP

3. Whether respondent no.1 was not holding any valid driving licence at the time of accident, if so, its effect?OPR-3

4. Relief.”

Since the only issue involved in the instant appeal is with regard to quantum of compensation, I would be adverting to the findings recorded by the Tribunal as regards Issue No.2.

Perusal of the award dated 31.1.2014 passed by the Tribunal would reveal that income of the deceased has been assessed as Rs.6,000/- per month. Age of Harmeet Singh at the time of his death has been taken as 22 years as reflected in the Post Mortem Report (Ex.PD) as also on the basis of Birth Certificate Ex. C2 duly proved on record. In increase in income @ 50% towards future prospects has been granted. 50% deduction has been made towards personal and living expenses of the deceased. Multiplier of 18 has been applied to the multiplicand. Rs.25,000/- has been awarded towards funeral expenses and the total compensation amount has been

computed to be Rs.9,97,000/- to be payable along with interest @ 7.5%

from the date of filing of the claim petition till actual realization.

Liability to pay the compensation amount has been fastened jointly and severally upon the driver/owner and the Insurance Company.

I have heard counsel for the parties at length.

Claimant/mother had asserted that Harmeet Singh (deceased) was earning Rs.7,000/- per month as he was running a General Store at House No.2224, Pipliwala Town, Manimajra, Chandigarh. However, since no documentary evidence had been adduced to substantiate such claim, the Tribunal by way of approximation and keeping in view the minimum wages admissible to a daily wager has assessed the monthly income as Rs.6,000/- per month. During the course of arguments before this Court, counsel has adverted to Notification dated 19.11.2012 issued by the Assistant Labour Commissioner, U.T., Chandigarh and appended as Annexure A-1 along with the appeal which would reflect the minimum monthly wages of an unskilled worker between the period 1.10.2012 to 31.3.2013 as Rs.6750/- per month. Counsel for the appellant would contend that such notification would be applicable to the facts of the present case as the accident in question had taken place on 18.2.2013. Mr. Vinod Gupta, learned counsel representing the contesting Insurance Company does not dispute the applicability of the Notification dated 19.11.2012. Accordingly, the monthly income of the deceased Harmeet Singh is assessed as Rs.6750/- per month.

Since it was the case of the claimant/appellant herself that Harmeet Singh (since deceased) was self employed and was 22 years of age, increase in income towards future prospects is awarded at 40% by following the dictum laid down in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) R.C.R (Civil), 1009.***

Since Harmeet Singh (deceased) was a bachelor, the Tribunal has rightfully made a deduction of 50% from the monthly income towards personal and living expenses. Even the multiplier of 18 has been correctly applied to the multiplicand keeping in view the age of the deceased i.e. 22 years.

The amount awarded under the conventional heads by the Tribunal i.e. Rs.25,000/- is enhanced to Rs.30,000/- (Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses) as per *Pranay Sethi's* case (supra).

In view of the above, the compensation payable to the claimant/appellant herein is reassessed and calculated as follows:-

Sr. No.	Head	Calculation
1.	Monthly Income	6,750/-
2.	40% increase in income towards future prospects	6,750+40%=9,450/-
3.	50% deductions towards personal expenses of the deceased.	9,450 ÷ 2 = 4,725/- 9,450-4,725 = 4,725/-
4.	Compensation after applying multiplier of 18	4,725x12 = 56,700/- 56,700x18 = 10,20,600/-
5.	Conventional heads (loss of estate, funeral expenses etc.)	30,000/-
6.	Total	10,20,600+30,000=Rs.10,50,600/-

The afore-computed enhanced compensation be released in favour of the claimant/appellant along with interest @ 6% per annum from the date of filing of the claim petition till actual realization.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

31.07.2018
lucky

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No