

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-5722-2014

Date of Decision:26.04.2018

Malkiat Kaur and others

.....Appellants

Versus

Ramesh Singh and others

.....Respondents

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

**Present: Mr. Jagram Singh Cooner, Advocate,
for the appellants.**

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

HARI PAL VERMA, J.(Oral)

Appellants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by learned Motor Accident Claims Tribunal, Ambala (for short “the Tribunal”) vide award dated 28.11.2013.

As per claim petition, on 12.12.2012, Karnail Singh (since deceased) and his son-in-law Kuldeep Singh son of Joginder Singh, r/o village Sarawan, P.S. Sadhaura, District Yamuna Nagar, had gone to the house of his relative at village Bat Majra, District Kurukshetra. On 13.12.2012, they were returning to village Duliyani, Tehsil Barara, District Ambala. Karnail Singh (since deceased) was driving his separate car bearing registration No.HR-54A-0209 (Alto) on his left side of the road at a

moderate speed and Kulwant Singh along with Kuldeep Singh were

following him in their separate car. At about 1.00 am, when they reached near Lucky Farm situated on Ambala-Jagadhri Road, P.S. Mahesh Nagar, Ambala Cantt., in the meantime, the offending truck bearing registration No.HR-38S-1077, being driven by respondent No.1 in a rash and negligent manner, at a very high speed, came from Saha side. By coming on extreme wrong side, the offending vehicle hit the car of Karnail Singh (deceased). Due to impact, front portion of the car was totally damaged and the deceased got entangled in it. Kuldeep Singh and Kulwant Singh took Karnail Singh out of the said car. But due to injuries suffered by him, Karnail Singh died at the spot. The driver fled away from the spot after leaving the offending vehicle. An FIR No.490 dated 13.12.2012 under Sections 279/304-A IPC was registered in Police Station Mahesh Nagar.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of Karnail Singh, in a motor vehicular accident, which took place on 13.12.2012, the Tribunal has awarded a total compensation of ₹5,95,000/-.

Not satisfied with the aforesaid amount of compensation, the appellants-claimants have preferred the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that the case of the appellants is required to be allowed, in view of 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.** The deceased Karnail Singh was about 45 years of age, his income has been assessed as ₹5,000/- per month. The claim petition has been filed on behalf of five persons, which includes the widow, two sons, one niece and the mother.

Accordingly, the Tribunal has considered five dependents and has made 1/4th deduction. The Tribunal has not added the income towards the future prospects. Similarly, considering the age of the deceased as 45 years, multiplier 14 was required to be applied, whereas the Tribunal has applied multiplier 13. Similarly, as against the admissible amount of ₹70,000/- towards the conventional heads, only an amount of ₹9,500/- was awarded. Therefore, the award needs to be modified and the compensation is required to be enhanced.

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.

I have heard the learned counsel for the parties.

The Tribunal has returned a finding of fact that the deceased was 45 years of age at the time of accident. Considering the income of the deceased as ₹5,000 per month, the claimants are entitled to compensation assessed on the basis of multiplier 14 instead of 13. Similarly, in view of the law laid down by the Hon'ble Apex Court in **Pranay Sethi's case (supra)** and the age of the deceased, an addition of 25% is required to be made towards future prospects.

This Court finds that the claimants are held entitled to compensation in the following manner:-

Monthly income	:	₹5,000/-
Future prospects (25%)	:	₹1,250/-
Total monthly income	:	₹6,250/-
Annual income	:	₹75,000/-
Annual dependency (after 1/4 th deduction)	:	₹56,250/-

Total loss of dependency (₹56,250/-x 14)	:	₹7,87,500/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation :	₹8,57,500/-
Amount already awarded :	₹5,95,000/-

Enhanced amount : ₹2,62,500/-

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, the present appeal stands disposed of.

April 26, 2018
seema

(HARI PAL VERMA)
JUDGE

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