

223.

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

FAO-5836-2014 (O&M)

Date of decision:17.01.2018

PARVINDER KAUR AND ANR

... Appellants

versus

ANGREJ SINGH & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Amandeep Kaur, Advocate, for
Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. M.J.S. Bedi, Advocate,
for respondents No.1 and 2.

Mr. Amit Kundra, Advocate,
for respondent No.3.

HARI PAL VERMA, J.(Oral)

CM-16202-CII-2014

Prayer in this application filed under Section 151 CPC is for
condonation of delay of 12 days in refiling the present appeal.

For the reasons stated in the application, same is allowed and
the delay of 12 days in refiling the appeal is condoned.

FAO-5836-2014

The appellants-claimants have filed the present appeal against
the award dated 12.03.2014 passed by Motor Accident Claims Tribunal,
Rupnagar (for short, 'the Tribunal'), seeking enhancement of compensation,
on account of death of Jagtar Singh @ Jagga in a motor vehicular accident,
which took place on 26.03.2013.

Briefly stated, the claimants filed a claim petition under Section
166 of the Motor Vehicles Act, with the averments that on 26.03.2013,

Jagtar Singh alias Jagga was going from Khanna to his house at Iqbal Nagar, Mandi Gobindgarh, while driving his scooter at a slow speed on left side of the road. His brother Raghbir Singh, father Darshan Singh and another relative Mohan Singh were following him on separate motorcycles. At about 7.30 PM when they reached in the area of Bhadla Chowk, Mandi Gobindgarh, a Truck Trola bearing registration No.PB-03-AA-9888, being driven by Angrej Singh i.e. respondent No.1, came at a very high speed from behind and struck against the scooter of Jagtar Singh alias Jagga. Due to the said accident, Jagtar Singh alias Jagga died on the spot. He was taken to Civil Hospital, Mandi Gobindgarh, where he was declared brought dead.

The Tribunal held the driver responsible for the accident and the claimants were held entitled to a compensation of ₹8,31,000/-. While calculating the said amount of compensation, the Tribunal took the income of the deceased at ₹4,000/- as that of a labourer, though it has been claimed that the deceased was working as Raj Mistri and earning ₹13,000/- per month, but the claimants could not produce any document to show that the deceased was earning that very amount. Considering the income of the deceased as ₹4,000/-, a provision of 50% increase was also made and thus, the monthly income was taken as ₹6,000/- which annually comes to ₹72,000/-. 1/3rd of the income was deducted towards the personal expenses of the deceased and the annual dependency was calculated at ₹48,000/-. Since the deceased was 25 years of age at the time of accident, multiplier of 17 was applied. Accordingly, the amount of compensation was calculated to ₹8,16,000/-. Besides the said amount, ₹10,000/- towards loss of consortium and ₹5,000/- towards funeral and last rites of deceased were also added. In this manner, a total compensation was calculated at ₹8,31,000/- in

favour of the claimants (i.e. wife and a minor son) and respondents No.4 and 5 (i.e. parents), along with interest @ 9% per annum from the date of filing of the claim petition till its realization.

Dissatisfied with the aforesaid amount of compensation, the claimants-appellants have filed the present appeal for enhancement of compensation.

Learned counsel for the appellants has argued that on account of death of Jagtar Singh alias Jagga, who was a young person of about 25 years of age and was working as a Mason (raj mistri), the Tribunal has wrongly assessed the income of the deceased as ₹4,000/- per month. She has further argued that as per notification dated 01.03.2013 even for an unskilled labourer, the minimum wages fixed by the Government of Punjab was ₹5,695/- per month. She has also argued that adequate compensation has not been awarded under the conventional heads which includes loss of consortium, loss of estate and funeral expenses. Since the deceased was 25 years of age, multiplier of 18 is to be applied instead of 17.

On the other hand, learned counsel for the respondents states that adequate compensation has been granted and there is hardly any scope for interference in the appeal. However, they have argued that in view of judgment of Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others-2017(4) RCR (Civil) 1009**, the claimants are entitled for future prospects @ 40% instead of 50%.

I have heard learned counsel for the parties.

Considering the fact that the deceased was 25 years of age and even if he was an unskilled labourer, the income was required to be assessed at ₹5,695/- per month. In view of judgment of the Hon'ble Apex Court in

Pranay Sethi's case (supra), an increase of 40% towards future prospects is required to be added while assessing compensation. Further in view of said judgment, the amount awarded under the conventional heads is also required to be recalculated. After calculating the admissible amount, this Court has come to the conclusion that the claimants are entitled to the compensation in the following manner:-

Monthly income		₹5,695
Future prospects (%)	40%	₹2,278
Total monthly income		₹7,973
Annual Income		₹95,676
Deductions (personal expenses of the deceased)	1/3 rd	
Annual dependency		₹63,784
Multiplier	18	
Total loss of dependency		₹11,48,112
Conventional heads		
i) Loss of Estate		₹15,000
ii) Funeral expenses		₹15,000/-
iii) Loss of consortium		₹40,000/-
Total amount of compensation		₹12,18,112

Accordingly, the award is modified to the aforesaid extent. Since the amount of ₹8,31,000/-, as already awarded by the Tribunal, is stated to have been disbursed to the claimants, the said amount shall be deducted from this modified award. However, the enhanced amount shall fetch interest @ 7.5% per annum from the date of filing of claim petition till its realization.

With the above modification in the award, present appeal is allowed.

(HARI PAL VERMA)
JUDGE

17.01.2018
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.