

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

FAO No.5855 of 2014 (O&M)

Date of Decision: May 10, 2018

Kamlesh Yadav

...Appellant

Versus

Sanjay Kumar and another

...Respondents

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

Present: Mr.Sushil Bhardwaj, Advocate
for the appellant.

Mr.Ivan Singh Khosa, Advocate for
Mr.M.N Kaul, Advocate for
respondent No.2 - Insurance Company

HARINDER SINGH SIDHU, J.

The claimant has filed the present appeal for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal') vide its award dated 24.03.2014.

Brief facts as disclosed in the claim petition are that on 03.12.2012 in the area of T point, Prem Nagar a vehicular accident took place involving Truck No.HR-20A/9374 (herein for short 'the offending vehicle'), wherein, Nikhil (son of the claimant) lost his life. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

On a claim petition having been filed by the claimant, mother of the deceased, the Tribunal assessed the income of the deceased at Rs.6160/-

per month, deducted 1/2 towards his personal expenses, applied the multiplier of 15 according the age of the claimant – mother. The loss of dependency was assessed at Rs.5,54,400/-. Besides, Rs.20,000/- as 'conveyance of dead body and performance of last rites' were awarded. In all, compensation of Rs.5,74,400/- along with interest was awarded.

Feeling dissatisfied with the quantum of compensation, the claimant is before this Court.

It is argued on behalf of the claimant that the Tribunal has not followed any procedure while assessing the compensation. Neither any future prospects have been granted, nor the proper multiplier has been applied to assess the loss of dependency. It is further argued that no separate amount has been awarded under conventional heads as per the settled law.

Having heard learned counsel for the parties in the light of the decision of the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others (2017) 16 SCC 680, the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Monthly Income	6,160/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 19 yrs.)	6160+(6160x40/100)= 8,624/-
(iii)	Monthly dependency (1/2 of (ii) deducted as personal expenses of the deceased-bachelor)	8624-(8624x1/2)= 4,312/- per month
(iv)	Loss of dependency after multiplier of 18 is applied	4312x12x18= 9,31,392/-
(v)	Loss of Estate	15,000/-
(vi)	Funeral Expenses	15,000/-
	Total	Rs.9,61,392/-

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.9,61,392/-, that is, Rs.3,86,992/-(961392-574400) 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.

May 10, 2018

(HARINDER SINGH SIDHU)

JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No