

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

FAO-5960-2014 (O&M)

Date of Decision:01.02.2018

Murti Devi and others

.....Appellants

Versus

Prahlad Singh and others

.....Respondents

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

Present: Mr. Ajit Kumar Sharma, Advocate for
Mr. Ram Darshan Yadav, Advocate,
for the appellants.

None for respondent Nos.1 and 2.

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

HARI PAL VERMA, J.(Oral)

CM-16540-CII-2014

For the reasons stated in the application, same is allowed and
the delay of 17 days' in re-filing the appeal is condoned.

C.M. stands disposed of accordingly.

FAO-5960-2014

Appellants-claimants have filed the present appeal for
enhancement of compensation awarded by the learned Motor Accident
Claims Tribunal, Rewari (for short "the MACT") vide award dated
29.11.2013.

In a claim-petition filed by the claimants under Section 166 of
the Motor Vehicles Act 1988, the learned MACT has awarded a total

compensation of ₹3,33,000/- on account of death of Pawan Kumar, in a motor vehicular accident, which took place on 12.05.2011.

As per the claim-petition, on 12.05.2011, deceased Pawan Kumar along with one Mahender Singh son of Prabhu Dayal, resident of village Kharagwas were going to their village on their separate motorcycles. While Pawan Kumar was driving the motorcycle bearing registration No.HR-36E-9695 at a normal speed, reached near Shastri Nagar at Narnaul Railway crossing, the offending vehicle bearing registration No.HR-36L-7444 driven by respondent No.1, at a fast speed, in a rash and negligent manner came from Mohindergarh side and hit against the motorcycle of Pawan Kumar. Due to this impact, Pawan Kumar fell on the road and received multiple injuries. He was brought to the General Hospital, Rewari. But considering his grievous injuries, the family members shifted him to Sardarjang Hospital, New Delhi, where he died on 14.05.2011. Mahender Singh was the eye-witness and accordingly FIR No.90 dated 13.05.2011 under Sections 279, 337 IPC was registered in Police Station Rampura. Later on Section 304-A IPC was also added.

At the time of death, deceased Pawan Kumar was aged about 21 years and he was working as an electrician under the control and supervision of Tej Pal Singh, and earning salary of ₹6,000/- per month. In addition to it, he was earning ₹50,000/- per annum from agriculture work. The appellants have spent an amount of ₹1 lac on the treatment, medicines, transportation and funeral expenses of Pawan Kumar.

Learned counsel for the appellants has argued that since the deceased was 21 years of age and was working as an electrician, his income should have been assessed @ ₹6,000/- per month as he was working with

Tej Pal Singh, who was an electrical contractor. Even otherwise, as held by the Hon'ble Apex Court in National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009, the learned MACT was required to apply multiplier viz-a-viz age of the deceased and not of the claimants. Therefore, deceased being 21 years of age, the learned MACT was required to apply the multiplier of 18. He has further argued that no amount of compensation has been awarded under the head of future prospects. No amount has been awarded towards loss of estate whereas a very meager amount of ₹3,000/- was awarded towards funeral expenses which also needs enhancement. Further, no amount towards transportation was awarded to the claimants.

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that though the learned MACT has awarded adequate compensation but in view of the law laid down by the Hon'ble Apex Court in Pranay Sethi's case(supra), the claimants are entitled an amount of 40% towards future prospects. He has argued that the learned MACT has rightly applied multiplier of 11 viz-a-viz age of the claimants and the Courts are required to apply such multiplier only.

I have heard the learned counsel for the parties and found that the impugned award passed by the learned MACT needs certain modifications/enhancement. Deceased Pawan Kumar was 21 years of age. Having regard to the judgment passed by the Hon'ble Supreme Court in Pranay Sethi's case(supra), the claimants are entitled for enhancement of compensation on the basis of multiplier of 18 instead of 11. As held in the case of Pranay Sethi's case(supra), multiplier has to be applied considering the age of the deceased and not the age of the

claimants/dependents.

The learned MACT has considered the earning of the deceased as ₹5,000/- per month being a skilled worker. Tej Pal Singh-PW4 with whom the deceased was working has tendered his affidavit (PW4/A), wherein he has stated that the deceased Pawan Kumar was working as an electrician and used to draw salary of ₹6,000/- per month. He has admitted that he has not issued any appointment letter to the deceased at the time of employment. Though he has pleaded that he is an income-tax payee but he has not shown any deduction in respect of income tax from the salary disbursed to the deceased. Accordingly, the learned MACT has assessed the income of the deceased as ₹5,000/- per month. Since he was unmarried, a cut of 50% was applied.

Similarly, this Court finds that no compensation has been awarded towards the head of loss of estate and a very small amount of ₹3,000/- has been granted towards funeral expenses. This Court cannot ignore the fact that immediately after the accident, the deceased was taken to the Government Hospital, Rewari and taking into consideration the serious injuries suffered by him, he was taken to Safdarjang Hospital, New Delhi, therefore, in this process, this Court cannot ignore the transportation expenses incurred by the claimants. In this view of the matter, this Court finds that the claimants are entitled to another sum of ₹10,000/- on account of transportation charges.

Accordingly, the award dated 29.11.2013 passed by the learned MACT is modified and the compensation, to which the claimants are entitled, is computed as follows:-

Monthly income : ₹5,000/-

Future prospects (40%)	:	₹2,000/-
Total monthly income	:	₹7,000/-
Annual income	:	₹84,000/-
Deductions (50%)	:	₹42,000/-
Multiplier (₹42,000 x 18)	:	₹7,56,000/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Transportation charges	:	₹10,000/-

Total amount of compensation : ₹7,96,000/-

Amount already awarded : ₹3,33,000/-

Enhanced amount : ₹4,63,000/-

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

With the aforesaid modification in the award, the present appeal stands disposed of.

February 01, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No