

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

FAO No.5963 of 2014 (O&M)

Date of Decision: January 24, 2018

Bhagwati and others

...Appellants

Versus

Saddam and others

...Respondents

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

Present: Mr.Vaibhav Parashar, Advocate for the appellants.

Mr.Suman Jain, Advocate assisted by
Mr.Garvit Kalra, Advocate
for the respondent – Insurance Company.

HARINDER SINGH SIDHU, J.

This is claimants' appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal') for the death of Gaurav in a vehicular accident, which occurred on 7.10.2010 in the area of village Durgapur, due to rash and negligent driving of Dumper No.HR-38Q-3544 by respondent No.1 Saddam.

The appellants - claimants are parents of the deceased.

Though the claim petition was filed by the parents and two minor brothers of the deceased, who was an unmarried boy aged about 19 years, but the Tribunal found only the parents entitled to compensation.

The Tribunal stating that the deceased was a young person of 19 years and must be earning minimum wages, assessed his monthly income at Rs.4000/- per month. It deducted $\frac{1}{2}$ towards the personal expenses of the

deceased and applied the multiplier of 9 ($2000 \times 12 \times 9 = 2,16,000$) as per the

age of the claimants – parents. Besides, it also awarded Rs.19,000/- towards medical expenses, and Rs.10,000/-, each, towards 'loss of estate' and 'transportation and funeral expenses'. The claimant – parents were held entitled to compensation of Rs.2,55,000/- along with interest.

Challenging the award, learned counsel for the appellants contended that the Tribunal fell in error in not awarding future prospects as also in applying the multiplier according to the age of the claimants, whereas, as per the settled law it was required to be applied according to the age of the deceased.

I have heard learned counsel for the parties and perused the paper-book with their assistance.

In view of the decision of the Constitution Bench of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 AIR(SC) 5157,** the compensation is re-assessed as under:-

Sr.No.	Heads	Amount (In Rs.)
(i)	Income @ Rs.4000/- per month	
	<i>40% of above (i) to be added as future prospects (deceased aged 19 yrs.)</i>	<i>4000+1600 = 5600/- per month</i>
(ii)	<i>Monthly loss of income after deduction of ½ of (i) as personal expenses of the deceased (bachelor)</i>	<i>5600-2800 = 2800/-</i>
(iii)	<i>Total loss of income after multiplier of 18 is applied (deceased aged 19 years)</i>	<i>2800x12x18 = 6,04,800/-</i>
(iv)	<i>Loss of Estate</i>	<i>15,000/-</i>
(v)	<i>Funeral Expenses</i>	<i>15,000/-</i>
(vi)	<i>Medical Expenses</i>	<i>19,000/-</i>
	<i>TOTAL COMPENSATION</i>	<i>6,53,800/-</i>

Accordingly, the appeal is allowed. The Award of the Tribunal is modified to the extent that the claimants – appellants are held entitled to total compensation of Rs.653800/-, that is, Rs.3,98,800/- (653800-255000) 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.

January 24, 2018

(HARINDER SINGH SIDHU)

JUDGE

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No