

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

FAO No.4804 of 2015 (O&M)

Date of Decision: 01.10.2018

Sukhwant Singh and others

... Appellants

Versus

Safi Mohammad and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Tarun Vir Singh Lehal, Advocate,
for the appellants.

Mr. Vishal Satija, Advocate for
Mr. Vivek K. Thakur, Advocate,
for respondent Nos.1 and 2.

Mr. Sanjeev Kodan, Advocate,
for respondent No.3-Insurance Company.

TEJINDER SINGH DHINDSA, J.(ORAL)

This is a claimants' appeal seeking enhancement of compensation.

Briefly, it may be noticed that a claim petition under Section 166 of the Motor Vehicles Act was filed before the Motor Accident Claims Tribunal, Rupnagar seeking compensation to the tune of Rs.30 lakhs on account of death of Baljit Kaur in a motor vehicle accident that took place on 04.06.2014.

Claimants were the husband and two minor children of the deceased.

It was asserted on behalf of the claimants that on 04.06.2014 Baljit Kaur (since deceased) was proceeding on an Activa Scooter and she was hit by a truck bearing registration No.

HP-19C-2077 and whereupon she suffered grievous injuries to which she succumbed on the same very day.

The Tribunal vide award dated 13.02.2015 has awarded the compensation amount of Rs.14,75,000/- along with interest @ 9% per annum from the date of filing of the claim petition till actual realization and payable to the claimants in equal shares. The liability to pay the compensation amount was held to be joint and several.

Since the only issue involved in the present case is with regard to quantum of compensation, I have heard counsel for the appellants/claimants as also Mr. Kodan learned counsel representing the contesting respondent Insurance Company.

In the considered view of this Court, the compensation amount awarded by the Tribunal would require certain enhancement.

Perusal of the award would reveal that the monthly income of Baljit Kaur has been assessed to be Rs.10,000/-. The same would not call for any intervention. Such view is being taken as Baljit Kaur (since deceased) apart from discharging multifarious role and duties of a housewife was also doing tuition work. In this regard, claimants had examined Tarsem Singh and who deposed that his grandson was taking tuition from the deceased and used to pay Rs.1000/- per month. Even though no other evidence was adduced to reflect educational qualification possessed by the deceased as also her bank balance etc. yet the version set up on behalf of the claimants that Baljit Kaur was taking tuitions and

earning therefrom cannot be disbelieved.

It may be noticed that the Tribunal has not awarded any addition in income towards future prospects. This is perhaps for the reason that a notional income of the deceased had been assessed. In the eventuality where addition in income towards future prospects has not been granted, the Tribunal has erred in making a deduction of 1/3rd from the notional income towards personal and living expenses. Accordingly, it is held that even though no addition in income towards future prospects are to be awarded in favour of the claimants, even 1/3rd deduction from the notional income cannot be made.

There is no dispute inter se the parties with regard to age of the deceased being 27 years as on the date of the accident.

Under such circumstances, the Tribunal has rightfully applied the multiplier of 17.

That apart the Tribunal has awarded Rs.1,15,000/- under the conventional heads i.e. Rs.1 lakh towards loss of consortium, Rs.10,000/- towards funeral expenses and Rs.5,000/- towards transportation.

By applying the dictum laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, the amount awarded under the conventional heads would now stand scaled down to Rs.70,000/- i.e. Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and a like amount of Rs.15,000/- towards funeral expenses.

In view of the above, the compensation amount is re-assessed and calculated as below.

Sr. No.	Head	Calculation
1.	Income Rs.10,000/- p.m.	Rs.10,000/-
2.	Compensation after applying multiplier of 17	Rs. 10,000 x 12,x 17= 20,40,000/-
3.	Conventional Heads: loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
	Total	Rs. 20,40,000 +70,000= Rs.21,10,000/-

The afore calculated enhanced compensation amount be released in favour of the claimants/appellants in equal shares along with interest @ 6% per annum from the date of filing of the claim petition till actual realization.

Appeal is allowed in the aforesaid terms.

01.10.2018

vandana

Whether speaking/reasoned

Whether Reportable

(TEJINDER SINGH DHINDSA)

JUDGE

Yes

No