# IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO-5405-2015 (O&M)**
**Date of decision:19.09.2018**

Seeta Devi & others ... Appellants

Versus

Ranjeet Singh & others ... Respondents

**CORAM: HON'BLE MR. JUTSTICE TEJINDER SINGH DHINDSA.**

Present: Mr. Gaurav Aggarwal, Advocate for the appellants.

Mr. Dheeraj Narula, Advocate for respondents No.1 to 3.

Ms. Madhu Sharma, Advocate for respondent No.4.

...

**TEJINDER SINGH DHINDSA, J. (ORAL)**

**CM-17068-69-CII-2015:**

In view of the averments made in the applications, duly supported by two separate affidavits of the counsel himself, prayer is allowed.

Delay of 27 days in re-filing and 2 days in filing the accompanying appeal is condoned.

Applications are disposed of.

**Main appeal:**

This is claimants' appeal seeking enhancement of compensation.

It may be noticed that vide award dated 12.01.2015 passed by the Motor Accident Claims Tribunal, Sirsa, a compensation amount of Rs.11,57,852/- has been awarded in favour of the claimants on account of death of Kesra Ram in a motor vehicle accident that took place on 03.03.2012.

Claim petition under Section 166 of the Motor Vehicles Act was filed by the widow, four minor daughters and aged mother of the deceased claiming compensation to the tune of Rs.20 lakhs. It was asserted that on 03.03.2012, Kesra Ram (since deceased) was travelling on a tractor along with others and the tractor was struck by a trolley bearing registration No. HR-58-5228 being driven in a rash and negligent manner and on account of injuries suffered, Kesra Ram had died.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, this Court would be adverting to the findings recorded by the Tribunal pertaining to issue No.2 and which was framed in the following terms:

> *"If issue No.1 is proved to what amount of compensation, the petitioners are entitled to and from whom? OPP"*

Tribunal has returned findings in favour of the claimants and on issue No.1 has held that the death of Kesra Ram occurred on account of injuries suffered in the accident on 03.03.2012 involving the offending/ insured vehicle and which was being driven in a rash and negligent manner by the driver. Insofar as quantum of compensation is concerned, age of the deceased has been taken as 27 years and his monthly income has been assessed on a notional basis as Rs.4500/- per month. An addition in income towards future prospects at the rate of 50% has been awarded. $1/4^{th}$ deduction from the income has been made towards personal and living expenses of the deceased. Multiplier of 17 has been applied to the multiplicand and a sum of Rs.1,25,000/- has been awarded towards loss of love and affection, funeral expenses and consortium for the widow. The total compensation amount computed by the Tribunal is Rs.11,57,852/- payable along with interest at the rate of 8% per annum from the date of filing of the claim petition till actual realization.

I have heard counsel for the claimant/appellants as also counsel representing the contesting respondent No.4/Insurance Company.

In the considered view of this Court, the compensation amount would require to be re-assessed in view of the parameters laid down by the Apex Court in **National Insurance Company Limited Vs. Pranay Sethi & others,2017 (4) RCR (Civil) 1009.**

In the first instance, I find considerable merit in the contention raised by counsel for the appellant that the Tribunal has assessed the monthly income of the deceased as Rs.4500/- per month to be on the lower side.

Even though, claimants had asserted that the deceased was having an income of Rs.5 lakhs per annum from the agricultural pursuits and was earning Rs.10,000/- per month in addition for selling milk but no evidence whatsoever has been adduced to substantiate such claim. In support of such earnings by the deceased, it was only the bald statement of the widow that had come forth. Under such circumstances, the Tribunal ought to have been guided by the relevant Notification issued by the State Government as regards minimum wages admissible to an unskilled worker. The accident in the present case had taken place on 03.03.2012. Deceased was an able bodied person aged 27 years and was looking after a family comprised of his wife, four minor daughters as also an aged mother. It would be safe to presume that the deceased was earning at least Rs.6000/- per month to sustain his family. Accordingly, monthly income of the deceased is taken as Rs.6000/- per month.

Since it was the case set up on behalf of the claimants themselves that the deceased was self employed, an increase in income at the rate of 40% towards future prospects is awarded keeping in view the age of the deceased as 27 years and as per dictum laid down in **Pranay Sethi's case (supra).** Tribunal has resorted to a deduction of 1/4$^{th}$ from the income of the deceased towards his personal and living expenses. Even though, such 1/4$^{th}$ deduction as per parameters laid down in **Sarla Verma & others Vs. Delhi Transport Corporation & another, 2009 (3) RCR (Civil) 77,** yet the facts of the present case are peculiar. Deceased was maintaining a family of his wife, aged mother and four minor daughters. Under such circumstances, it would be just and reasonable to make a deduction of 1/5$^{th}$ instead towards personal and living expenses. It is so directed.

However, with regard to the amount awarded under the conventional heads, the same would now stand scaled down from Rs.1,25,000/- to Rs.70,000/- i.e. Rs.40,000/- towards consortium, Rs.15,000/- towards loss of estate and like amount of Rs.15,000/- towards funeral expenses.

In view of the above, the compensation amount is re-assessed and calculated as follows:

| Sr. No. | Computation/Head | Revised calculation |
|---|---|---|
| 1. | Income Rs.6,000/- | 40% increased towards future prospects i.e. 6000+2400=8400/- |
| 2. | 1/5$^{th}$ cut towards personal and living expenses of the deceased | 8400-1680=6720/- |
| 3. | Compensation after | 6720 x 12 = 80,640/- |

| | | |
|---|---|---|
| | applying multiplier of 17 | 80,640 x 17 =13,70,880/- |
| 4. | Conventional Heads i.e. loss of estates, funeral expenses and loss of consortium etc. | Rs.70,000/- |
| 5. | Total | 13,70,880+70,000=14,40,880/- |

The afore calculated revised/enhanced compensation amount be released in favour of appellant No.1, Seeta Devi i.e. widow as also natural guardian/mother of appellants No.2 to 5 along with interest at the rate of 6% from the date of filing of the claim petition till actual realization.

Petition is allowed in the aforesaid terms.

**19.09.2018** **(TEJINDER SINGH DHINDSA)**
*harjeet* **JUDGE**

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No