

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

**FAO No.4587 of 2016 (O&M)
Date of Decision : 24.07.2018**

Tej Kaur and others

..... Appellants

Versus

Avtar Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- None for the appellants.

Mr.Puneet Jain, Advocate
for the respondent-Insurance Company.

AJAY TEWARI, J. (Oral)

None has entered appearance on behalf of the appellants.

This is an appeal for enhancement of compensation and for modifying the award dated 17.10.2015 passed by Motor Accident Claims Tribunal, Patiala granting compensation of Rs.10,95,000/- and interest @ 6 % per annum in favour of the appellants and against the respondents.

Brief facts of the case are that on 21.07.2014, Ishwar Singh (deceased) along with his friend Labh Singh was coming back from Bhunerheri to village Jalbera on the motor cycle driven by Labh Singh on which Ishwar Singh was the pillion rider. Chetan Singh who is brother of Labh Singh and one Bhupinder Singh were following the motor cycle

driven by Labh Singh. When they reached on the bridge of canal minor near the Bus stand of Bhunerheri, at about 11.00 AM one Chevrolet Spark Car bearing Registration No.HR-40D-1550 driven by respondent No.1 in a rash and negligent manner and without blowing any horn and without observing the traffic rules tried to overtake the motor cycle driven by Labh Singh and hit the motor cycle. As a result of this, both Labh Singh and Ishwar Singh fell on the road and Ishwar Singh was crushed under the tyres of the offending car. During the treatment Ishwar Singh succumbed to the injuries suffered by him in the accident. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

In view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 25% have to be ordered on account of future prospects. Learned counsel for the respondent-insurance company however, points out that there had been an over payment under the conventional heads. Total amount paid is Rs.1,50,000/- whereas under the judgment of *Pranay Sethi's case (supra)* it could only be Rs.30,000/- because no consortium had to be awarded as the deceased was a widower. I find weight in this argument also and reduce the amount under conventional heads to Rs.30,000/-. I find that the tribunal has erred in ordering conditional interest and that to only at 6%. Consequently, I enhance the interest to 8% from the date of filing the claim petition till the date of payment. Apportionment and management would remain the same.

Appeal is allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

24.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No