

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

FAO-6001-2015 (O&M)

Date of Decision:-18.5.2018

Smt. Kelo and others

... Appellants

Versus

Ajay Sharma and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Balvinder Singh Brar, Advocate for the appellants.

None for the respondents.

GURVINDER SINGH GILL, J.

Seeking enhancement of compensation, the claimants have challenged award dated 17.3.2015 passed by learned Motor Accident Claims Tribunal, Panipat, whereby compensation to the tune of ₹ 8,58,118/- has been awarded along with interest @ 9% per annum from the date of filing of the claim petition on account of death of Kitab Singh.

The case set up by the claimants is that on 26.12.2013, when deceased Kitab Singh @ Kitaba was going on a motorcycle from village Adiyana to Village Dumiyana, then a car bearing registration No.DL-8CAE-0420 came from the opposite side, which was being driven at a very high speed and in rash and negligent manner and struck against the motorcycle of deceased, as a result of which the deceased sustained multiple injuries and ultimately succumbed to his injuries in PGIMS, Rohtak on 1.1.2014. The claim petition was resisted by the respondents.

The learned Tribunal upon appraisal of the evidence on record held that the accident in question had occurred due to rash and negligent driving on part of the driver of the offending vehicle and thus awarded compensation to the tune of ₹ 8,58,118/- along with interest @ 9% per annum from the date of filing of the claim petition, vide impugned award, which has been challenged by way of filing the present appeal.

I have heard the learned counsel for the appellants and have also perused the impugned award.

I find that, while assessing the notional income of deceased as ₹ 8,000/- per month as a daily wager, no additional amount has been added towards “future prospects” on account of the likelihood of increase in income of the deceased in coming years. Bearing in mind the ratio of Hon’ble the Supreme Court in National Insurance Company Limited v Pranay Sethi and others, 2017 S.C.C. 1270 and keeping in view the age of deceased i.e. 50 years, in my opinion an amount equal to 25% of the above assessed income ought to be added in the income towards “future prospects”. By adding the said amount, the income would work out to ₹ 10,000/- per month. After deducting 1/3rd towards personal expenses, the dependency of the claimants can be assessed as ₹ 6,666/- per month. In other words, the annual dependency would work out to ₹ 79,992/- . The age of the deceased assessed by the Tribunal as 50 years would warrant application of a multiplicand of 13, as has been correctly applied by the learned Tribunal. Thus by applying the said multiplier, the compensation would work out to ₹ 10,39,896/-.

In addition to the aforesaid assessed amount, the claimants including widow of the deceased are also entitled to compensation under statutory heads i.e. an amount of ₹ 40,000/- towards loss of consortium, ₹ 15,000/- towards loss to estate and ₹ 15,000/- on account of funeral expenses. It is borne from the record that an amount of ₹ 16,170/- had also been incurred by the claimants towards the medical treatment of the deceased. The claimants are held entitled to the said amount as well. By adding the said amounts to the above assessed compensation, the total compensation works out ₹ 11,26,066/-. Consequently, the impugned award is modified as regards the quantum and the claimants are held entitled to compensation for an amount of ₹ 11,26,066/- alongwith interest @ 7½ % payable from the date of filing the claim petition till its realization to be shared by the claimants in the following proportion:-

Claimant No.1-Kelo	:	₹ 6,26,066/-
Claimant No.2-Rakesh	:	₹ 2,50,000/-
Claimant No.3-Rajesh	:	₹ 2,50,000/-

All the respondents shall pay the compensation jointly and severally. The appeal stands accepted with the aforesaid modification.

18.5.2018

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No