

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

FAO No. 7643 of 2014

Date of decision : August 13, 2018

Smt. Naresh and another

..... Appellants

v.

Naresh Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Amandeep Hooda, Advocate
for the appellants.

Mr. Deepak Girotra, Advocate
for respondent No.2.

Mr. Rajbir Singh, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation.

Brief facts are that on 22.4.2013, the deceased-Sunil along with one Sandeep was going to the house of his maternal uncle situated near MDN School, Rohtak from Hisar road on a motor cycle and at about 10.30 am when they reached near new Gohana bye-pass chowk, the offending vehicle being driven by respondent No.1 rashly and negligently hit the motor cycle and as a result thereof, both the motor cyclists fell down and sustained injuries and the deceased was declared brought dead by the doctors at PGIMS, Rohtak. Hence, the claim petition was filed.

The Tribunal held respondent No.1 responsible for causing the accident. Income of the deceased was assessed as ₹ 6000/- per month being the minimum wages of an un-skilled worker and dependency was fixed as

50%. After applying multiplier of 14, total compensation came to be ₹ 5,29,000/- including ₹ 25,000/- as funeral expenses.

Counsel for the appellants has argued that the multiplier in this case has been taken as per the age of the claimants while it should have been as per the age of the deceased. Counsel for respondent No.3 does not dispute this. Consequently, multiplier would be 18.

Counsel for the appellants has further argued that in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, future prospects of 40% had to be awarded, and that under the conventional heads, a sum of ₹ 5,000/- more should be awarded. Counsel for the Insurance Company also accepts this. Consequently, I award 40% as future prospects and ₹ 5,000/- more under the conventional heads.

Counsel for respondent No.3, however, points out that the income of the deceased at that time could be taken as ₹ 5500/- and not ₹ 6,000/- per month as per the relevant schedule of the Minimum Wages Act. Counsel for the appellants is not in a position to deny this. Consequently, I take the income of the deceased as ₹ 5500/- per month. Rest of the award would remain unchanged.

With this modification in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

August 13, 2018
'kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No

