

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.7653 of 2014
Date of Decision: 05.04.2018

Smt. Anguri Devi & another

....Appellant(s)

Versus

Yogender & others

Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Ms. Manpreet Kaur, Advocate for
Mr. Arjun Dev Yadav, Advocate
for the appellant(s).

Mr. Neeraj Khanna, Advocate
for respondent no.3-insurance company.

HARI PAL VERMA, J. (Oral)

The appellant-claimants have filed the present appeal seeking enhancement of compensation over and above the amount of compensation so granted by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the Tribunal”) vide award dated 05.03.2014.

Briefly stated, on 02.09.2013, deceased Madu Ram was coming on his bicycle and when he reached near Water Tank, Rewari Road, Narnaul, a car bearing registration No.HR-26BN-4691, which was being driven by its driver at a high speed in rash and negligent manner, came there and hit his bicycle. As a result thereof, Madu Ram sustained

simple as well as grievous injuries on his person. He was shifted to Government Hospital, Narnaul, where he was medicolegally examined, but considering the seriousness of injuries suffered by him, he was further shifted to Apex Hospital, Jaipur, where he died on 04.09.2013 during treatment. Accordingly, a criminal case bearing FIR No.449 dated 05.09.2013 under Sections 279/304-A IPC was registered at Police Station, City Narnaul.

On a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of Madu Ram on 04.09.2013 in a motor vehicular accident which took place on 02.09.2013, the Tribunal awarded a total compensation of Rs.5,04,000/- along with interest @ 7.5% to the appellant-claimants.

Not satisfied with the aforesaid award, the claimants have filed the present appeal seeking enhancement of the compensation so awarded by the Tribunal.

Learned counsel for the appellant-claimants has argued that the Tribunal has not awarded adequate compensation to the claimants, as on the date of accident, even the minimum wages of an unskilled labourer were Rs.5,341/- whereas the Tribunal assessed his income as Rs.4,500/- per month. He has further argued that as held in the case of **National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009**, the Tribunal has not awarded compensation under the head 'future prospects' as well as compensation under 'other conventional heads'. The deceased was firstly admitted at Government Hospital, Narnaul but due to serious

nature of his injuries, he was shifted to Jaipur (Rajasthan), but no amount of compensation awarded towards transportation.

On the other hand, learned counsel appearing on behalf of the insurance company has argued that adequate compensation has been awarded to the claimants. Since the appellant-claimants have failed to produce any evidence as regards the income of the deceased, the Tribunal has rightly assessed the income of the deceased as Rs.4500/- per month. Thus, there is no scope of enhancement of compensation.

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

Admittedly, the accident and other liabilities are not in dispute in the present appeal. What is in dispute is the quantum of compensation awardable to the appellant-claimants.

It is the admitted case of the parties that the deceased Madu Ram had died on 04.09.2013 because of injuries sustained by him in a motor vehicular accident which took place on 02.09.2013. The deceased had left behind his widow and a son. The Tribunal has neither awarded any compensation under the head 'future prospects' nor for the 'transportation', particularly when the deceased was firstly made to shift from Government Hospital, Narnaul and thereafter, Apex Hospital, Jaipur and sufficient amount must have been spent on transportation also. For such like patient who is critical, the charges of the taxi operator is always exorbitant than in the normal situation. Moreover, a total amount of Rs.20,000/- has been awarded on account of 'loss of consortium, love and affection' and on account of 'funeral expenses'. The deceased was 55

years of age at the time of his death and therefore, in view of judgment of Hon'ble the Apex Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009**, the claimants are entitled for compensation under the head 'future prospects' as well as compensation under 'other conventional heads'.

In view of law laid down by Hon'ble the Apex Court in the case of **Pranay Sethi** (*supra*) and considering the fact that the deceased fall in the age group of 50-60, the claimants are held entitled for addition in income under the head 'future prospects' @ 10% apart from a total sum of Rs.70,000/- under the 'other conventional heads', which included Rs.15,000/- towards 'funeral expenses', Rs.15,000/- towards 'loss of estate' and Rs.40,000/- towards 'loss of consortium' instead of Rs.10,000/- under the head 'funeral expenses and Rs.10,000/- on account of loss of estate, love and affection and consortium etc. as awarded by the Tribunal. The deceased Madu Ram was firstly admitted in Government Hospital, Narnaul and thereafter, shifted to Apex Hospital, Jaipur and he remained admitted for four days and thereby, sufficient amount must have been spent on account of medical expenses and transportation. Therefore, the claimants are also held entitled for an amount of Rs.5,000/- towards 'transportation'. Monthly income is also to be enhanced from Rs.4500/- to Rs.5500/- being minimum wages of unskilled labour during the relevant period.

Accordingly, with the assistance of both the counsel, this Court has calculated the total compensation, payable to the appellant-claimants, as under:-

<u>S.No.</u>	<u>Heads</u>		<u>Calculation (₹)</u>
1	Monthly Income		5500.00
2	Future prospects	10%	550.00
3	Total monthly income (<i>monthly income + future prospects</i>)		6,050.00
4.	Annual Income (<i>Total monthly income x 12</i>)		72,600.00
5.	Deduction towards personal expenses of deceased	1/3	24,200.00
6.	Annual dependency (<i>Annual income – deduction towards personal expenses of deceased</i>)		48,400.00
7	Multiplier	11	
8.	Total loss of dependency (<i>Annual dependency x multiplier</i>)		5,32,400.00
9.	Transportation		5,000.00
10.	Medical expenses		88,000.00
11.	Conventional heads:		
	Loss of Estate:	:	15,000.00
	Funeral expenses	:	15,000.00
	Loss of Consortium	:	40,000.00
12.	Total amount of compensation		6,95,400.00
13.	Amount already awarded		5,04,000.00
14.	Total Enhancement		1,91,400.00

Accordingly, the present appeal is allowed. The impugned award is modified to the extent that the appellant-claimants shall be entitled for an enhanced amount of Rs.1,91,400/- over and above the amount of compensation already granted to them. It is further ordered that the enhanced amount of compensation shall be released to the appellant-claimants in same proportion and manner, as granted by the Tribunal and

this enhancement shall fetch interest @ 7.5% per annum from the date of filing the claim petition till its realization.

April 05, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No