

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-8263-2014 (O&M)
Date of decision: 28.02.2018

Subhash Chander & ors.

... Appellants

VS

Jaspreet & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Kuldeep Singh, Advocate for
Mr. Rajan Gandhi, Advocate
for the appellants.

Mr. D.K.Parjapati, Advocate for
Mr. R.S.Madan, Advocate
for respondent No.3.

Hari Pal Verma, J.(Oral)

The claimants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (in short 'the Tribunal') vide award dated 11.07.2013.

The appellants had filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for grant of compensation on account of death of their young son, namely, Narinder Kumar, aged about 27 years, who died in a Motor Vehiclular Accident, which took place on 19.02.2011. The Tribunal after considering all aspects awarded a total compensation of Rs.8,41,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its realisation.

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 claimants.

The deceased Narinder Kumar, who was aged about 27 years at the time of accident, died in the accident. He was working as a goldsmith and was earning Rs.40,000/- per month while the Tribunal has assessed the income of the deceased as Rs.6,000/- per month and his annual income was assessed as Rs.72,000/-. The Tribunal has applied the multiplier of 17 and awarded Rs.25,000/- under the conventional heads.

Learned counsel for the appellants has argued that in view of the judgment passed by Hon'ble Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi, 2017 SCC 270***, the appellants are entitled to compensation under the head of 'future prospects' as well as enhancement under conventional heads. The deceased being 27/28 years of age, is entitled for addition of compensation under the head of future prospects @ 40% per annum. The Tribunal has awarded an amount of Rs.25,000/- under the conventional heads whereas as per *Pranay Sethi's case(supra)* the claimants are entitled for compensation of Rs.70,000/- under the conventional heads.

On the other hand, learned counsel for respondent No.3 has argued that adequate compensation has already been awarded by the Tribunal. He further submits that the widow of the deceased has left the house of the deceased and the claimants are not entitled to compensation under loss of consortium.

I have heard learned counsel for the parties.

This Court finds that the Tribunal has rightly assessed the income of the deceased as Rs.6,000/- per month, as minimum wages because there was no other proof of income of the deceased. However, the

appellants-claimants are entitled to compensation under the head of future prospects @ 40% per annum. The Tribunal has awarded Rs.25,000/- on account of funeral expenses, transportation, last rites and loss of consortium whereas as per Pranay Sethi's case(supra) the claimants are entitled for a total of Rs.70,000/- instead of Rs.25,000/- under the conventional heads. With the assistance of parties, this Court finds that the claimants are entitled to compensation in the following manner:

<i>Heads</i>		<i>Calculation</i>
Monthly income		Rs.6,000/-
Future Prospects 40%		Rs.2,400/-
Total monthly income (monthly income + future prospects)		Rs.8,400/-
Annual income (Total monthly income x 12)		Rs.1,00,800/-
Deductions toward personal expenses of deceased	1/3 rd	
Annual dependency		Rs.67,200/-
Multiplier	17	
Total loss of dependency		Rs.11,42,400/-
<u>Conventional heads</u>		
Loss of estate	:	Rs.15,000/-
Funeral expenses	:	Rs.15,000/-
Loss of consortium	:	Rs.40,000/-
Total amount of compensation		Rs.12,12,400/-
Amount already awarded		Rs.8,41,000/-
Total enhancement		Rs.3,71,400/-

Thus, the claimants are entitled to enhanced compensation of Rs.3,71,400/- over and above the amount awarded by the Tribunal. The claimants are also entitled to interest @ 7.5% per annum on the enhanced compensation from the date of filing of claim petition till its reasalisation.

With this modification, the appeal is disposed of.

28.02.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking? Yes/No
Whether reportable? Yes/No