

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

238

**FAO-565-2016 (O&M)
Date of Decision : 11.9.2018**

Smt. Santra and others

....Appellants

vs.

Virender Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Rajesh Dhankhar, Advocate
for the appellant(s).

Ms. Suman Kumari, Advocate
for respondent No.1.

Dr. Sushil Gautam, DAG, Haryana
for respondent No.2.

Mr. Vinod Gupta, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 11.9.2015 passed by Motor Accident Claims Tribunal, Palwal awarding compensation of Rs. 7,37,098/- alongwith interest at the rate of 7.5% per annum on account of death of Dharambir Singh in an accident.

Brief facts of the case are that on 16.7.2014 at about 10:00 a.m, the deceased-Dharambir Singh was going to his house on his scooty and when he reached near Minar Gate, Palwal, the offending vehicle/Police Van Swaraj Majda blue and red colour came at a very high speed in rash and negligent manner and hit against the scooty of the deceased due to which

the deceased sustained injuries. He was taken to Sheetal Hospital, Palwal, and later on was shifted to Fortis Escorts Hospital, Faridabad. During treatment in that hospital, the deceased succumbed to injuries on 28.8.2014. Claim petition was filed by the claimants and have been awarded abovementioned compensation.

Learned counsel for the appellants has argued that the Tribunal has wrongly taken the salary of the deceased as Rs. 5,000/- per month. He has argued that it was proved that deceased was Ex-serviceman. Though there was evidence to prove that he was getting Rs. 15,000/- per month but even if that cannot be proved, an Ex-serviceman has to be taken as a skilled labourer. Counsel for the insurance company is not in a position to refuse the logic of this argument. In the circumstances, I hold that the income of the deceased be taken as as Rs. 6,300/- per month (as per Schedule of Minimum Wages Act applicable to the State of Haryana).

The next issue raised by counsel for the appellants is that in view of the judgment in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 10% future prospect had to be added to the income as future prospects. Counsel for the insurance company has accepted this also. Consequently, I grant 10% future prospects.

Counsel for the appellants further states that it was proved that the deceased was getting a monthly pension of Rs. 11,134/- per month. After his death, half of that would be taken away and consequently, his family would be getting only Rs. 5,567/- as family pension and as per law

there would be 10% future prospect on this also. Counsel for the insurance company is not in a position to deny this. Consequently, I grant 10% future prospects on the pension amount of Rs. 5,567/- also.

Counsel for the appellants states that as per the judgment in Pranay Sethi and others' case (supra) under the conventional heads Rs.15,000/- more had to be granted. Counsel for the insurance company has very fairly accepted this also. Consequently, I award Rs. 15,000/- more under this head.

The enhanced amount be handed over to the appellant No.1 only. The rest of the Award shall remain unchanged.

Resultantly, this appeal stands disposed of with the abovesaid modifications.

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

11.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No