

229.

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

FAO-7003-2015 (O&M)

Date of decision:30.01.2018

MEENA DEVI AND ORS

... Appellants

versus

AMIT KUMAR AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vikram Bali, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate, and
Mr. Ravinder Arora, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

CM-21874-CII-2015

Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 82 days in filing the present appeal.

For the reasons stated in the application, same is allowed and the delay of 82 days in filing the appeal is condoned.

FAO-7003-2015

The appellants-claimants have filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') dated 02.03.2015.

Briefly stated, the claimants had filed a claim petition under Section 166 of the Motor Vehicles Act for grant of compensation on account of death of Munna Singh. The claimants are the mother, father and

two minor brothers of the deceased. As per the claim petition, on 14.03.2013, Munna Singh (since deceased) was riding his scooter bearing registration No.HR-03-C-2909 make Vespa and was going to Village Madanpur for some personal work. At about 7.45 PM when he reached near Sainik Petrol Pump, Ramgarh, in the meanwhile, offending truck bearing registration No.HR-38-K-7845, being driven by its driver-Amit Kumar i.e. respondent No.1 in a rash and negligent manner, came from the side of Panchkula and hit the scooter of the deceased Munna Singh. Due to the impact of the accident, Munna Singh along with his scooter fell down on the road and sustained multiple injuries. The accident was witnessed by one Gurmit Singh son of Angrej Singh. Patrolling police was called at the spot by the said eyewitness and Munna Singh was rushed to PGI, Chandigarh for treatment where he died during treatment. An FIR No.65 dated 15.03.2013 under Sections 279, 337, 304-A IPC was registered at Police Station Chandi Mandir.

The deceased was 25 years of age at the time of accident. Though the claimants have claimed the salary of the deceased as ₹8,000/- per month on the ground that he was working with some Gas Agency at Kalka, however, the same was not proved in evidence. Therefore, the Tribunal has considered the wages of the deceased as an unskilled worker @ ₹6,000/- per month. The deceased was unmarried, therefore, the Tribunal awarded compensation in the following manner:-

	Date of accident	14.03.2013
Age of deceased:	About 25 years (bachelor)	
Occupation	Held to be a daily wager.	
Claimants:	Claimants No.1 and 2 are the parents of the deceased and claimants No.3 and 4 are the younger brothers of the deceased	
	Heads of claim	Tribunal

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Sl. No.		Amount (₹)
1.	Income	6000/- per month
2.	Add, % of Increase 30%/50%	50%
3.	Deduction ½, 1/3, ¼, 1/5	½
4.	Multiplicand (annualized) (6000+3000=9000-4500)4500x12	54,000 per annum
5.	Multiplier as per the age of parents	12
6.	Loss of dependency	6,48,000
7.	Medical expenses	--
8.	Loss of Consortium	--
9.	Loss of estate	25,000/-
10.	Funeral Expenses	25,000/-
11.	Total	6,98,000

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

Learned counsel for the appellants has argued that he does not dispute the income of the deceased but the Tribunal has applied a wrong multiplier. The deceased was 25 years of age and the multiplier has to be applied taking into consideration the age of the deceased as held by the Hon'ble Apex Court in National Insurance Company Limited Versus Pranay Sethi and Others- 2017(4) RCR (Civil) 1009.

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that there is no illegality in the award passed by the Tribunal. The Tribunal has rightly applied the multiplier while taking into consideration the age of the claimants and as held in the case of New India Assurance Company Limited Versus Shanti Pathak-2007 ACJ 2188, the Tribunal is required to apply a multiplier according to the age of the parents and not of the deceased. He has further argued that in view of law laid down in Pranay Sethi 's case (supra), an addition of 50%, as granted by the Tribunal towards future prospects, is required to be modified to 40%.

I have heard learned counsel for the parties.

Since the Insurance Company has not filed the appeal, therefore, it led to an admission that they are not disputing the income of the deceased-Munna Singh. The only argument raised by the Insurance Company is that the multiplier has rightly been applied by the Tribunal and while calculating the compensation, the Tribunal was required to apply the multiplier vis-a-vis the age of the dependent claimants and not of the deceased. But this Court finds that in view of law laid down in Pranay Sethi 's case (supra), the age of the deceased would be the basis for the applicability of the multiplier. Further, in view of judgment (supra) where the deceased is below 40 years of age, 40% future prospects have to be granted. Thus, this Court finds that the appellants are entitled compensation in the following manner:-

Heads		Calculation
Monthly Income		₹6,000
Future prospects (%age)	40%	₹2,400
Total monthly income (monthly income + Future prospects)		₹8,400
Annual income (total monthly income x 12)		₹1,00,800
Deductions (towards personal expenses of deceased)	½	
Annual dependency		50,400
Multiplier (annual dependency x multiplier)	18	
Total loss of dependency		9,07,200
Conventional heads:		
Loss of Estate		15,000
Funeral expenses		15,000
Total amount of compensation		9,37,200
Amount already awarded		6,98,000
Enhancement		2,39,200

Accordingly, present appeal is allowed and the award is modified to the aforesaid extent. Since the amount of ₹6,98,000/- has already been awarded to the appellants-claimants, the said amount shall be deducted from this modified award. Accordingly, the appellants-claimants

shall be paid ₹2,39,200/- as enhanced compensation and in view of **Pranay Sethi 's case** (supra), it will carry interest @ 7.5% per annum from the date of filing of claim petition till its realization.

(HARI PAL VERMA)
JUDGE

30.01.2018
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Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.