

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

FAO No. 7142 of 2015 (O&M)

Date of decision : July 18, 2018

Palo Devi and others

.....Appellants

Versus

Sunil Sharma and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjay Panghal, Advocate for
Mr. S.S. Nara, Advocate
for the appellants.

Mr. Pankaj Mehta, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the 'Tribunal') on account of death of Sukhbir vide award dated 11.03.2015.

Brief facts necessary for adjudication of the case are that the claimants, who are the widow, two children and mother of the deceased namely Sukhbir, filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Sukhbir on 08.10.2013 in a motor vehicle accident caused due to rash and negligent driving of the offending truck bearing registration No. HR-38J-3045 driven by respondent No.1. FIR No. 499 dated 08.10.2013 under Sections 279, 304A, 427 IPC was registered at Police Station City Jagadhri in respect to the accident.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 08.10.2013 due to

rash and negligent driving of the offending truck bearing registration No. HR-38J-3045 by respondent No. 1. This finding of the learned Tribunal has attained finality. Learned Tribunal awarded a sum of ₹7,86,000/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹6,000/- per month. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 14 was applied as the deceased was 45 years old at that time. Sum of ₹10,000/- on account of loss of love and affection was awarded besides a sum of ₹10,000/- on account of funeral expenses. Additionally, sum of ₹10,000/- was afforded to appellant No. 1 towards loss of consortium.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that the deceased was 44 years old at the time of death. No compensation has been awarded on account of future prospects. It is, however, conceded that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, compensation awarded under the conventional heads and interest awarded is required to be reworked. It is prayed that compensation awarded to the claimants be enhanced.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed and the impugned award dated 11.03.2015 be upheld.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

As per the Post Mortem Report (Ex.P1), age of the deceased is reflected to be 45 years at the time of the accident on 08.10.2013. Thus, increase of 25% should be afforded on account of future prospects. There is, however, no evidence on record to justify any increase in the income of the deceased from ₹6,000/- per month as assessed by the learned Tribunal.

In view of the guidelines laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi's** case (supra), future prospects at the rate of 25% are afforded, which takes the income of the deceased to ₹7,500/- per month. Deduction of 1/4th is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹6,000/-(7,500-1875). Multiplier of 14 is correctly applied by the learned Tribunal. Dependency of the claimants is assessed as ₹9,45,000/- (₹5625x12x14). The claimants are also entitled to ₹40,000/- on account of loss of consortium, ₹15,000/- for funeral expenses and ₹15,000/- for loss of estate as well as funeral expenses etc. Claimants are, thus, entitled to compensation of ₹10,15,000/- detailed as under:-

Loss of dependency (₹5625x12x14)	₹9,45,000/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹10,15,000/-

Needless to say, the amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per cent per annum on the enhanced amount from the date of filing of the petition till

realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

July 18, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No