

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

FAO No.8779 of 2014 (O&M)

Date of Decision: 16.10.2018

Inderjit Kaur and others

... Appellants

Versus

Baljit Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Neeraj Khanna, Advocate,
for the appellants.

Mr. Satpal Dhamija, Advocate,
for respondent No.3-Insurance Company.

TEJINDER SINGH DHINDSA, J.(ORAL)

This is a claimants' appeal seeking enhancement of compensation.

Briefly, it may be noticed that a claim petition under Section 166 of the Motor Vehicles Act was filed before the Motor Accident Claims Tribunal, Amritsar seeking compensation to the tune of Rs.50 lakhs on account of death of Bhupinder Singh in a motor vehicle accident that took place on 27.07.2011.

Claimants were the parents and sister of the deceased.

In the claim petition, it had been asserted that on the fateful day while Bhupinder Singh (since deceased) was proceeding on a scooter, he was struck by a commercial vehicle bearing registration No. PB-06-N-2211 being driven by respondent No.1 Baljit Singh at a high speed and in a careless & negligent manner.

Claim petition having been contested, the following issues were framed by the Tribunal:-

- 1) ***“Whether Bhupinder Singh S/o Shri Manjit Singh suffered injuries in a road side accident, which took place on 27.07.2011, at about 9.30 p.m. In the area of Fatehgarh Churian, Bye-pass Chowk, Amritsar, due to rash and negligent driving of truck bearing registration No. PB-06-N-2211, by Baljit Singh, respondent No.1, to which, he succumbed? OPP***
- 2) ***Whether the petitioners/claimants are entitled to recover any compensation, if so, the amount and from whom? OPP***
- 3) ***Whether the petition is not maintainable? OPR***
- 4) ***Whether respondent No.1 was not having a legal and valid driving licence at the time of accident, if so, its effect? OPR3***
- 5) ***Whether respondent No.2 insured violated terms and conditions of insurance policy, if so its effect? OPR3***
- 6) ***Whether the petition is bad for mis-joinder and non-joinder of necessary parties? OPR***
- 7) ***Relief.”***

Insofar as issue No.1 is concerned, findings were returned in favour of the claimants and it was held that death of Bhupinder Singh occurred on account of injuries suffered in an accident that took place on 27.07.2011 involving the offending truck and on account of rash and negligent driving by the driver, namely, Baljit Singh respondent No.1.

Vide award dated 02.07.2013, the total compensation amount has been computed as Rs.16,30,000/-to be payable to the claimants along with interest. The liability to pay the compensation amount was held to be joint and several.

Since the only issue raised in the present appeal is with regard to quantum of compensation, I have heard counsel for the appellants as also learned counsel representing the contesting respondent No.3-Insurance Company.

Counsel representing the contesting respondent Insurance Company does not dispute that the compensation amount would require to be re-assessed and suitably enhanced in view of the guidelines/dictum laid down in the judgment rendered by the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

In the present case, there is no dispute between rival parties with regard to the monthly income assessed by the Tribunal as Rs.15,000/-, deduction of 50% having been made towards personal and living expenses of the deceased on account of being a bachelor and multiplier of 18 having been applied to the multiplicand on account of the age of the deceased being 21 years.

It is a case where the Tribunal has overlooked the aspect with regard to addition in income towards future prospects. It was the case of the claimants themselves that deceased was in private employment. In view thereof and keeping in view the age of the deceased to be 21 years, an addition in income @ 40%

towards future prospects is awarded by following the dictum laid down in **Pranay Sethi's case (supra)**.

The Tribunal has awarded a total sum of Rs.10,000/- under the conventional heads i.e. towards funeral expenses as also loss of estate. Such amount would also now stand enhanced to Rs.30,000/- i.e. Rs.15,000/- towards loss of estate and the like amount of Rs.15,000/- towards funeral expenses.

The award dated 02.07.2013 passed by the Tribunal would require intervention even with regard to grant of interest on the compensation amount. In the award, it was directed that in case the Insurance Company makes payment of award within a period of 02 months from the date of passing of the award, there would be no component of interest and beyond such time frame of 02 months, the Insurance Company would be liable to pay interest @ 6% per annum. Such grant of conditional interest by the Tribunal is impermissible. The claimants as such are held entitled to interest @ 6% per annum on the compensation amount of Rs.16,30,000/- awarded by the Tribunal from the date of filing of the claim petition till actual payment if not already paid.

In view of the above, the compensation amount is re-assessed and calculated as follows:-

Sr. No.	Head	Calculation
1	Income Rs.15,000/- p.m.	Rs.15,000/-
2	Addition in income towards @ 40% future prospects	Rs.15,000 +6000=Rs.21,000/-

3	50% deduction towards personal and living expenses of the deceased	Rs.21,000-10,500= Rs.10,500/- Rs.10,500 x 12=Rs.1,26,000/-
4	Compensation after applying multiplier of 18	Rs.1,26,000 x 18=22,68,000/-
5	Conventional Heads: loss of estate and funeral expenses	Rs.30,000/-
	Total	Rs. 22,68,000+30,000= Rs. 22,98,000/-

The afore calculated enhanced compensation amount be made over to appellant Nos.1 and 2 herein i.e. parents of the deceased in equal shares along with interest @ 6% from the date of filing of the claim petition till actual realization.

Appeal is allowed in the aforesaid terms.

16.10.2018
vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No