

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

FAO-881-2014 (O&M)

Date of Decision:08.02.2018

Gurjit Kaur and others

.....Appellants

Versus

Anil Kumar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Vipul Dharmani, Advocate,
for the appellants.

Mr. Pradeep Kumar, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

CM-2763-CII-2014

Prayer in the application filed under Section 5 of the Limitation Act is for condonation of delay of 40 days in filing the appeal.

For the reasons stated in the application, same is allowed and the delay of 40 days in filing the appeal is condoned.

FAO-881-2014

Appellants-claimants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by the learned Motor Accident Claims Tribunal, Rupnagar (for short “the MACT”) vide award dated 10.07.2013.

The appellants-claimants had filed a claim-petition under Section 166 of the Motor Vehicles Act, for grant of compensation on account of death of Karnail Singh, who died in a motor vehicular accident, which took place on 05.03.2011. On that day, Karnail Singh was going

along with Hardev Singh towards Anandpur Sahib on a motorcycle bearing

registration No.PB-16-C-7525 at a slow speed. As soon as they reached near the bridge at Dasgrain, in the meantime, the offending vehicle bearing registration No.PB-12-M-9503 came in a rash and negligent manner from the link road of village Khanpur and without giving any signal or blowing horn struck against the motorcycle of the deceased. In the said accident, deceased-Karnail Singh fell down on the road and struck against the iron angle installed on the edge of the road. As a result of which, he died on the spot. An FIR No.32 dated 05.03.2011 under Sections 279 and 304-A IPC was registered in Police Station Anandpur Sahib, District Ropar against the offending driver.

Having considered the age and income of the deceased, the learned MACT has awarded a total compensation of ₹9,70,000/- which included a sum of ₹5,000/- towards loss of consortium and another sum of ₹5,000/- towards transportation and funeral expenses.

Dissatisfied with the aforesaid award, the appellants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that the deceased-Karnail Singh was about 36 years of age at the time of his death. He died in the aforesaid accident leaving behind his widow and two minor daughters. The MACT has not awarded any compensation towards future prospects and even the compensation awarded under conventional heads also deserves to be enhanced.

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that taking into consideration the age and income of the deceased, the MACT has already awarded adequate compensation and there is no scope of any enhancement. However, he has

argued that since the deceased was self-employed, this Court may consider modification of the award so far as the future prospects are concerned.

I have heard learned counsel for the parties.

The age, accident and the claimants are not in dispute. Even the liability on the Insurance Company is established. However, this Court finds that in view of the law laid down by the Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009**, the claimants are entitled an addition of 40% under the head of future prospects. Similarly, the claimants are also entitled for enhancement under the conventional heads. The MACT has awarded interest @ 6% per annum but as held in **Pranay Sethi's case (supra)**, the claimants are entitled to interest @ 7.5% per annum.

Accordingly, with the assistance of learned counsel for the parties, this Court finds that the claimants are entitled compensation in the following manner:-

Monthly income	:	₹8,000/-
Future prospects (40%)	:	₹3,200/-
Total monthly income	:	₹11,200/-
Annual income	:	₹1,34,400/-
Deductions (1/3 rd)	:	₹89,600/-
Multiplier (₹89,600 x 15)	:	₹13,44,000/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation :	₹14,14,000/-
Amount already awarded :	₹9,70,000/-

Enhanced amount :	₹4,44,000/-
-------------------	-------------

Since the claimants have already been awarded an amount of ₹9,70,000/-, this amount is required to be deducted from the total amount of compensation so assessed by this Court.

Accordingly, the claimants are entitled for enhancement of compensation of ₹4,44,000/- over and above the compensation already awarded by the learned MACT, which shall carry interest @ 7.5% per annum from the date of filing of claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

February 08, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No