

223.

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

FAO-7235-2015

Date of decision:09.03.2018.

UGAM DEVI

... Appellant

Versus

SANDEEP AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Gopal Sharma, Advocate,
for the appellant.

Mr. Deepak Jindal, Advocate,
for respondent No.2.

Ms. Anamika Mehra, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

Appellant-claimant has filed present appeal seeking enhancement of compensation over and above the compensation awarded by Motor Accident Claims Tribunal, Rewari (for short, "the Tribunal") vide award dated 11.12.2014.

Memorandum of appearance filed on behalf of respondent No.3 in court today, is taken on record.

On a claim petition filed under Section 166 of Motor Vehicles Act, 1988 on account of death of Narender Singh, the Tribunal has awarded a compensation of ₹5,54,200/-. Not satisfied with the said amount of compensation, the claimant has filed the present appeal for enhancement of compensation.

Briefly stated, on 12.06.2012 at about 9.00, Narender Singh (since deceased) was coming to his village Tankri on his motorcycle bearing registration No.HR36Q-0759, after attending his duty at M/s Kunstocom (India) Limited, Neemrana. When he reached near Khanoda turn, in the meantime, the offending vehicle i.e. Trola bearing registration No.HR39B-5987 being driven by its driver rashly and negligently and at a very high speed, came from behind and struck against the motorcycle of Narender Singh. As a result thereof, Narender Singh fell down on the road and came under the offending vehicle and died on the spot. It was claimed that the accident was caused due to rash and negligent driving of the offending vehicle driven by respondent No.1-Sandeep. In this respect, an FIR No.103, under Sections 279/304A IPC, was registered at Police Station Shahjapur, District Alwar. The claimant alleged that the deceased was 29 years of age at the time of accident and was earning ₹14,651/- per month and they have suffered great loss of love and affection due to his death.

Learned counsel for the appellant has argued that the appellant is entitled for an addition of 40% towards future prospects. The Tribunal has applied a wrong multiplier. The deceased, being 27 years of age, multiplier of 17 was to be applied considering the age of the deceased, but the Tribunal has applied a multiplier of 9 on the basis of age of the claimant, who is mother of the deceased.

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that as held in **Rajesh Versus Rajbir Singh-(2013) 9 SCC 54**, the Tribunal has rightly applied multiplier of 9 taking into consideration the age of the claimant-parent. She has further argued that the Tribunal has already awarded adequate compensation and there is no further

scope for any enhancement in the award passed by the Tribunal.

I have heard learned counsel for the parties.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the appellant-claimant. There is no dispute that the deceased-Narender Singh was 27 years of age at the time of accident, which resulted in his death. The deceased was working in the Administration Department at Kunstocom India Limited as Quality Inspector from April 2011 till June 2012. He died in the accident on 12.06.2012. His gross salary was ₹14,200/- per month and as per the pay slip (Ex.PW3/B), his basic pay was ₹7,000/- + ₹2,800/- as HRA. The Tribunal assessed the income of the deceased as ₹9,800/- per month. Therefore, in the light of judgment of Hon'ble Apex Court passed in **National Insurance Company Limited Versus Pranay Sethi and others- 2017(4) RCR (Civil) 1009**, this Court finds that the appellant is entitled for an addition under the head of future prospects @ 40% in the income, so assessed by the Tribunal i.e. ₹9,800/- per month. At the same time, the claimant is entitled for multiplier of 17 instead of 9 awarded by the Tribunal, as the multiplier has to be applied vis-a-vis the age of the deceased and not with the age of the claimant. In the case in hand, Narender Singh, who died in the accident, was 27 years of age. Similarly, the Tribunal has awarded an amount of ₹25,000/- towards loss of funeral expenses, but no amount has been awarded under the head of loss of estate. Therefore, in the light of judgment of **Pranay Sethi's case** (supra), the claimant is entitled for ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses. As the deceased-Narender Singh was unmarried, loss of consortium is not to be awarded. Accordingly, this Court finds that the appellant-claimant is entitled for enhancement of

compensation in the following manner:-

Heads		Calculation
Monthly Income		₹9,800
Future prospects (%age)	40	₹3,920
Total monthly income (monthly income + Future prospects)		₹13,720
Annual income (total monthly income x 12)		₹1,64,640
Deductions (towards personal expenses of deceased)	½	
Annual dependency		₹82,320
Multiplier	17	
Total loss of dependency (annual dependency x multiplier)		₹13,99,440
Conventional heads:		
Loss of Estate		₹15,000
Funeral expenses		₹15,000
Total amount of compensation		₹14,29,440
Amount already awarded		₹5,54,200
Enhancement		₹8,75,240

With the aforesaid modification, present appeal is disposed of and the compensation of ₹8,75,240/- is enhanced which shall be payable to the appellant-claimant along with interest @ 7.5% per annum from the date of filing of claim petition till its realization.

However, it is made clear that as the appeal was filed after a delay of 170 days (though delay was condoned vide order dated 14.12.2015), the claimant shall not be entitled for interest for the period by which the appeal was barred by limitation.

(HARI PAL VERMA)
JUDGE

09.03.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No