

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

221

FAO No.7244 of 2015 (O&M)

Date of Decision : 13.07.2018

Smt. Meenakshi and others

..... Appellants

Versus

Nazeer Ali and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Ms. Meenakshi Poswal, Advocate
for the appellants.

Mr. Namit Khurana, Advocate
for respondents No.1 & 2.

Mr. Sachin Ohri, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This is an appeal for enhancement of compensation and for modifying the award dated 24.08.2015 granting compensation of Rs.12,42,500/- and interest @ 7.5 % per annum in favour of the appellants and against the respondents.

The brief facts of the case are that on 12.07.2014 at about 11/11.15 am the deceased Pawan Kumar alongwith his mother Jogindero Devi was coming back to his home at village Urjani on a three-wheeler (sic) Suzuki No.HR71-C-7407. His mother was a pillion rider and his father was following them on a cycle. When they reached near Sherpur turn, a truck bearing registration No.HR58A-5278, being driven by respondent No.1 in a

rash and negligent manner hit the three-wheeler of the deceased-Pawan Kumar. As a result Pawan Kumar and his mother Jogindero sustained multiple injuries on their persons. Pawan Kumar ultimately succumbed to those injuries. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

Learned counsel has for the appellants has argued that the salary has been taken at Rs.8,300/- whereas it was testified by the Accountant in the District Information and Technology Society, Yamuna Nagar that w.e.f. July 2014 the salary was increased to Rs.9,900/-. In the present case once the death took place on 12.07.2014 the salary of the deceased has to be taken as Rs.9,900/-.

Learned counsel for the insurance company is not in a position to deny this. Therefore, the salary to the tune of Rs.9,900/- is taken.

Learned counsel for the insurance company points out that under the conventional heads a total amount of Rs.1,80,000/- has been awarded against the limit of Rs.70,000/- as prescribed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.*** Therefore an amount of Rs.70,000/- is assessed towards conventional heads. Counsel for the appellants has further argued that nothing has been awarded towards future prospects but in view of Pranay Sethi (supra) future prospects of 40% had to be granted and the deduction would be 1/3rd. I find merit in both these arguments also. The rate of interest and management shall remain same as awarded by the tribunal.

Appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

13.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No