

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

**FAO-7127-2016 (O&M)
Date of decision:13.08.2018**

Nirmala & another

... Appellants

Versus

Sonu & others

... Respondents

CORAM: HON'BLE MR. JUTSTICE TEJINDER SINGH DHINDSA.

Present: Ms. Gurdeep Kaur, Advocate for
Mr. Sandeep Vermani, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3/Insurance Company.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

This is claimants' appeal seeking enhancement of compensation.

2. Briefly noticed, a claim petition was filed under Section 166 of the Motor Vehicle Act, 1988 claiming compensation to the tune of Rs.50 lakhs on account of death of Dalbir Singh in an accident that took place on 15.12.2013. Claimants were the mother and brother of the deceased. Claimants had asserted that age of the deceased was 26 years and he was working as a Munshi on a brick kiln and earning Rs.12,000/- per month as salary. In addition thereto, it was asserted that the deceased was also earning between Rs.1.50 lakhs to Rs.2 lakhs per annum by cultivating 2 acres of land.

3. The Tribunal returned findings in favour of the claimants by holding that death of Dalbir Singh took place on account of injuries suffered in the accident caused on account of rash and negligent driving of the offending Bolero jeep bearing registration No.HR-16-M-3557.

4. Insofar as quantum of compensation is concerned, Tribunal has assessed the monthly income of the deceased to be Rs.6000/- per month, granted an increase of income at the rate of 50% towards future prospects, made a deduction of 50% towards personal and living expenses of the deceased and awarded Rs.25,000/- towards funeral expenses and a like amount of Rs.25,000/- for loss of love and affection. The total amount awarded is Rs.9,68,000/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization.

5. Having heard counsel for the appellant/claimants as also counsel for contesting/Insurance Company, I am of the considered view that no interference in the case is warranted.

6. Even though, the claimants had asserted that the deceased was earning Rs.12,000/- per month as salary but apart from the affidavit Ex.PW2/A of the Rajpal i.e. owner of M/s Dev Bhatta Company, no other corroborative evidence in the nature of attendance register or salary register was produced to substantiate the claim of getting salary of Rs.12,000/- per month. Even with regard to cultivating 2 acres of land, no evidence was adduced. Accordingly, the Tribunal has assessed the monthly income of the deceased as Rs.6000/- per month which would be the minimum wages admissible to an unskilled worker in relation to the date of the accident i.e. 15.12.2013. The same would not call for any interference.

7. The Tribunal has rightfully made a deduction of 50% towards personal and living expenses of the deceased as Dalbir Singh (since deceased) was concededly a bachelor.

8. Even though, in the light of the parameters laid down by the Hon'ble Supreme Court in **National Insurance Company Limited Vs.**

Pranay Sethi, 2017 (4) RCR (Civil) 1009, increase in income towards future prospects for a self employed person and in the age bracket of 26 years is to be 40%, yet the Tribunal has already awarded an increase in income at the rate of 50% towards future prospects. Concededly, the Insurance Company has not filed any cross appeal. The same does not call for any interference as such. Under the conventional heads, a total sum of Rs.50,000/- has been awarded by the Tribunal towards funeral expenses and for loss of love and affection. By applying the parameters laid down by the Supreme Court in **Pranay Sethi's case (supra)**, such amount should have been Rs.30,000/- i.e. Rs.15,000/- towards funeral expenses and Rs.15,000/- for loss of estate. Since the differential amount is marginally on the higher side and the Insurance Company has not filed any cross appeal, such amount is also not being interfered with.

9. For the reasons recorded above, no case for enhancement of compensation is made out.

10. Appeal is without merit and the same is dismissed.

13.08.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |