

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

FAO No. 1748 of 2017 (O&M)

Date of decision : December 07, 2018

Veena Devi

.....Appellant

Versus

Kamlesh Kumar and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: None for the appellant.

Ms.Monika Jangra, Advocate for
Ms.Vandana Malhotra, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the 'Tribunal') on account of death of Nand Lal vide award dated 01.11.2016.

It is noticed that none had appeared on behalf the appellant on the last date of hearing. Today again, there is no representation on her behalf. The matter was earlier adjourned on two occasions at request of learned counsel for the appellant and it was ultimately observed on 07.05.2018 that the appellant shall not be entitled to any interest from 25.04.2018 till the adjourned date, in case some enhancement is ultimately ordered in the compensation amount. Though the matter can be dismissed in default, the present being a claimant's appeal, the said course is not adopted as it is considered just and expedient to decide the matter on merits.

Brief facts necessary for adjudication of the case are that the claimant i.e. widow of the deceased filed a petition under Section 166 of the

Motor Vehicles Act seeking compensation on account of death of Nand Lal on 07.09.2014 in a motor vehicle accident caused due to driving of the offending vehicle Truck bearing registration No. HP-17C-0694, by respondent No.1 in a rash and negligent manner. It was averred that Nand Lal was waiting for a bus on the road near ITI Sadhaura for going to Kala Amb. A truck bearing registration No. HP-17C-0694 came from the side of Dosarka Chowk struck him. As a result thereof, he fell on the road and sustained multiple injuries. He was removed to Civil Hospital, Sadhaura where he succumbed to his injuries. The deceased, aged 48 years at the time of the accident was stated to be earning a sum of ₹15,000/- per month while working as a Supervisor in Blue Star Company, Kala Amb.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 07.09.2014 due to rash and negligent driving of the offending Truck bearing registration No. HP-17C-0694 by respondent No. 1. Learned Tribunal awarded a sum of ₹4,21,298/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹5487/- per month. 50% deduction was effected. Multiplier of 9 was applied as the deceased was 57 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium and ₹25,000/- on account of funeral expenses was awarded.

Aggrieved of the quantum of compensation, claimant has filed this appeal.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the

compensation has been rightly assessed, thus, impugned award dated 23.08.2001 be upheld.

I have perused the file and have heard learned counsel for the insurance company.

There is no dispute that Nand Lal lost his life in a motor vehicle accident, which took place on 07.09.2014 caused due to the rash and negligent driving of Truck bearing registration No. HP-17C-0694 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 57 years old at the time of the accident.

Income of the deceased has been rightly assessed as ₹5,487/- per month by the learned Tribunal on the basis of the evidence produced on record to show that he was working in Uttam Business Services LLP, Baddi, District Solan and earning the said amount. In terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increase on account of future prospects at the rate of 10% (₹549/-) has to be afforded, as the deceased was 57 years old at the time of accident, which takes income of the deceased to ₹6,036/- per month. The widow of the deceased is the claimant in this case. Deduction of 50% has been wrongly applied. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3rd is to be applied thereby rendering income of the deceased to be ₹4024/-(6036-2012). Applying a multiplier of 9 dependency of the claimant is, therefore, assessed as ₹4,34,592/- (₹4024x12x9). The claimant is also entitled to ₹15,000/- each for funeral

expenses (instead of ₹25,000/-) and loss of estate besides the claimant - widow is entitled to ₹40,000/- instead of ₹1,00,000/- on account of loss of consortium. Claimant is, thus, entitled to total compensation of ₹5,04,592/- detailed as under:-

Loss of dependency (₹4024x12x9)	₹4,34,592/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹5,04,592/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization. However, the claimants are not entitled to interest from 25.04.2018 till today in terms of order dated 07.05.2018 passed in this appeal.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

Copy of this order be conveyed to the appellant by the Registry of this Court.

December 07, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No