

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 237

FAO-2616-2017

Date of decision : 15.12.2018

Raj Kumar and another

..... Appellants

VERSUS

Shiv Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Aditya Yadav, Advocate, for the appellants.

Mr. Rajneesh Malhotra, Advocate, for respondent No. 3.

DEEPAK SIBAL, J. (ORAL)

Through the present appeal the appellants/claimants seek enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (for short, the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that as a result of an accident, which took place in June, 2015, Krishan Kant @ Pintu s/o Raghbir Singh, aged 18 years died. The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking therein compensation on account of the death of the deceased-Krishan Kant. The claim was resisted by the driver and owner of the offending vehicle as also the Insurance Company. As per the claimants, the deceased was pursuing the ITI course and from cultivating his land was earning ₹10,000/- per month. However, since no evidence with regard to the above claim made by the claimants was led by them, the Tribunal assessed the income of the deceased @ ₹5,200/- per month after treating him to be a casual labourer. 50% on account of "future prospects" to the assessed monthly income of the deceased was also added. Thereafter since the deceased was unmarried, a cut of 50% to his assessed income was applied and the total payable compensation was calculated after applying a multiplier of 18.

Learned counsel for the appellants/claimants submits that even if the deceased was to be treated as a casual labourer, as per the Haryana Minimum Wages Rate, as applicable on the date of the accident i.e. in June, 2015, his monthly income was required to be assessed @ ₹7,400/- per month. However, in view of the law laid down by a Constitution Bench of the Hon'ble Supreme Court in "*National Insurance Company Limited vs. Pranay Sethi and others*" (2017) 16 SCC 680, he fairly submits that "future prospects" @ 50% granted by the Tribunal should be 40%.

Learned counsel for respondent No. 3-Insurance Company does not dispute that in June, 2015 when the accident took place resulting in the death of the deceased, the minimum wages payable to a casual labourer in the State of Haryana were ₹7,400/- per month.

In view of the above, the monthly income of the deceased as assessed by the Tribunal is enhanced from ₹5,200/- to ₹7,400/- and as per the law laid down by the Hon'ble Apex Court in *Pranay Sethi's* case (supra) the "future prospects" applied to the assessed income of the deceased are directed to be reduced from 50% to 40%.

On the enhanced compensation, the appellants/claimants are held entitled to interest @ 6.5% per annum from the date of filing of the claim petition till its realization.

No other point was raised.

The appeal is allowed by modifying the impugned award in the above terms.

15.12.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No