

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO No.1235 of 2018 (O&M)  
Date of Decision: February 28, 2018

Magma HDI General Insurance Co. Ltd.  
Versus  
Balour Singh and others

...Appellant  
  
...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Pankaj Mehta, Advocate  
for the appellant – Insurance company.

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HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 11.12.2017 passed by the Motor Accident Claims Tribunal, Bathinda (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 17.3.2015 in the area of Police Station Nehinwala, District a vehicular accident took place involving Truck No.PB-03V-9189 (herein for short 'the offending vehicle'), wherein, Gurpreet Singh lost his life. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

In the claim petition, the Tribunal assessed the income of the deceased at Rs.12,000/- per month, added 50% towards future prospects, deducted ½ towards his personal expenses, applied the multiplier of 18 (deceased a bachelor, aged 21 years). The following compensation was awarded by the Tribunal :-

| <i>Sr.No.</i> | <i>Heads</i> | <i>Calculation</i> |
|---------------|--------------|--------------------|
|---------------|--------------|--------------------|

|      |                                                                              |                                       |
|------|------------------------------------------------------------------------------|---------------------------------------|
| i)   | <i>Assessed monthly income</i>                                               | <i>Rs.12,000/- P.M.</i>               |
| ii)  | <i>50% of above (i) to be increased towards future prospects</i>             | <i>Rs.12000+6000/- = Rs.18,000/-</i>  |
| Iii) | <i>One Half of above (ii) deducted towards personal expenses of deceased</i> | <i>Rs.18,000-9000/- = Rs.9000/-</i>   |
| iv)  | <i>Annual income of the deceased</i>                                         | <i>9000x12 = 1,08,000/-</i>           |
| v)   | <i>Compensation after applying multiplier of 18</i>                          | <i>Rs.1,08,000x18= Rs.19,44,000/-</i> |
| vi)  | <i>Loss of Love and Affection to parents/claimants No.1 and 2</i>            | <i>Rs.1,00,000/-</i>                  |
| vii) | <i>Funeral expenses</i>                                                      | <i>Rs.25,000/-</i>                    |
|      | <b><i>Total compensation awarded</i></b>                                     | <b><i>Rs.20,69,000/-</i></b>          |

Ld. Counsel for the appellant – Insurance company has argued that the negligence of the driver of the offending vehicle has not been proved. He further argued that the salary of the deceased had also not been proved.

There is no merit in the aforesaid contentions. The claimants had examined CW2 Hardeep Singh, who stated that on 17.3.2015, he along with Gurpreet Singh (deceased) and some others was loading rice on truck bearing No.PB-03V-9189 at M/s Yadav Rice Mills for offloading the same at FCI godown. After loading the rice, Gurpreet Singh along with Tajender Pal Singh left the rice mill on motorcycle of Tajender Pal Singh for offloading the truck at the FCI godown. Hardeep Singh and other labourers boarded the truck to reach the FCI godown to offload rice. When the motorcycle was a little ahead of M/s Yadav Rice Mills towards Nahianwala side, a truck bearing No.PB-03V-9189 being driven by respondent No.1 rashly and negligently came from behind at high speed, without blowing horn and hit against the motorcycle of Tajender Pal Singh, as a result of which, Tajender Pal Singh and Gurpreet Singh fell from the motorcycle. Gurpreet Singh was ran over by the truck and he died at the spot. The

version of Hardeep Singh was corroborated by Tajender Pal Singh, who also had lodged the FIR. The mere fact that respondent No.1 was subsequently acquitted in the case by giving benefit of doubt is not determinative about the absence of negligence of respondent No.1. There was independent evidence before the Tribunal of the eye-witnesses of the accident who deposed that the accident was caused due to the negligence of respondent No.1. Thus, no fault can be found with this finding of the Tribunal.

The argument of Ld. Counsel for the appellant that there was no evidence that the deceased was drawing salary of Rs.12,000/- per month is also without merit. A certificate Ex.CB issued by M/s Yadav Rice Mills was produced before the Tribunal, as per which, Gurpreet Singh worked in the said Rice Mill w.e.f. 1.7.2014 to 16.3.2015 and received a monthly salary of Rs.12,000/- per month. This certificate was not rebutted by the insurer.

However, Ld. Counsel for the appellant is right in his contention that the Tribunal ought to have added 40% instead of 50% towards 'future prospects'. The amounts awarded under the non-pecuniary heads also need to be in accord with the decision of the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others (2017) 16 SCC 680.

Accordingly, the compensation is re-assessed as under:-

| Sr.No. | Heads                                                     | Calculation                     |
|--------|-----------------------------------------------------------|---------------------------------|
| i)     | Assessed monthly income                                   | Rs.12,000/- P.M.                |
| ii)    | 40% of above (i) to be increased towards future prospects | Rs.12000+4800/- =<br>Rs.16800/- |
| Iii)   | One Half of above (ii)                                    | Rs.16800-8400/- =               |

|      |                                                          |                                   |
|------|----------------------------------------------------------|-----------------------------------|
|      | deducted towards personal expenses of deceased           | Rs.8400/-                         |
| iv)  | Annual loss of dependency                                | 8400x12 = 1,00,800/-              |
| v)   | Total loss of dependency after applying multiplier of 18 | Rs.1,00,800x18=<br>Rs.18,14,400/- |
| vi)  | Loss of Estate                                           | Rs.15,000/-                       |
| vii) | Funeral expenses                                         | Rs.15,000/-                       |
|      | <b>Total</b>                                             | Rs.18,44,400/-                    |

Hence, the appeal is partly allowed. The Award of the Tribunal is modified only to the extent that the claimants – respondents are held entitled to total compensation of Rs.18,44,400/-, that is, Rs.2,24,600/- (2069000-1844400) less than the amount awarded by the Tribunal.

The appeal has been disposed of without notice to the respondents – claimants to avoid unnecessary delay and expenses. A copy of this order be conveyed to the claimants-respondents No.3 to 6. In the event of the said respondents having any objection, they may file application to that effect. On receipt of any such application, the same be listed for hearing.

It is made clear that this order has been passed on an appeal filed by the Insurance Company without hearing the claimants and is confined to the contentions raised herein. It is without prejudice to the rights of the claimants to separately agitate for enhancement on any other ground that may be available to them.

February 28, 2018

( HARINDER SINGH SIDHU )  
JUDGE

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|                             |          |
|-----------------------------|----------|
| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |

