

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.767 of 2018 (O&M)
Date of Decision: 05.02.2018

National Insurance Company Ltd.

....Appellant

V/S

Smt. Angrejo Devi and Ors.

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. S.S.Sidhu, Advocate,
for the appellant.

RITU BAHRI, J.(Oral)

The present appeal has been filed by the appellant against the Award dated 06.12.2017 whereby respondent Nos. 1 to 5 have been awarded compensation of Rs.12,93,200/- along with interest @7.5% p.a., by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') on account of death of Hardev in road accident which took place on 18.05.2016.

FACTS NOT IN DISPUTE

Brief facts of the dispute are that on 18.05.2016 during morning hours, deceased Hardev alongwith his friend namely Sourabh were coming after taking tuition from Ambala Cantt., for his residence on his bullet motor cycle bearing registration No. HR54-C-5861 being driven by deceased himself on his correct left side of the road in a very normal speed and Sourabh was pillion rider of his motor cycle and when at about 7.30 a.m., they reached just opposite Taneja Public School, Village Tepla, Distt. Ambala, in the meantime a private school bus bearing registration No. HR37D-6163 came from school side being driven by respondent no. 1 rashly, negligently at high speed and struck with the motor cycle of the deceased by going towards wrong side of the motor cycle of the deceased and due to this impact both the occupants of the motor cycle fell down on the

ground alongwith motor cycle. Sourabh fell towards kacha portion whereas deceased fell on the metalled road and both of them received injuries on their person. Deceased had sustained multiple grievous and serious injuries on his person including injuries on his right knee and during treatment he succumbed to the accidental injuries on 25.05.2016. In this regard FIR No.71 dated 25.05.2016 under Sections 279, 304-A a IPC was registered against respondent No. 1 at Police Station Saha.

In the present appeal parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 1. While driving the offending bus bearing registration No.HR370-6163 which was owned by respondent No. 2 and insured with respondent no. 3.

Learned counsel for the appellant filed the present appeal challenging the Award of the Tribunal on two grounds (i) that income of the deceased assessed by the Tribunal as Rs.8070/- per month is on higher side as per Haryana Minimum Wages Act, 2016 and (ii) compensation awarded towards love and affection is Rs. 40,000/- which is also on higher side as per the judgment of the supreme Court in case titled as **National Insurance company limited versus Pranay Sethi and Others SLP (Civil) N. 25590 of 2014**.

I have heard learned counsel for the parties and perused the case file.

The first arguments which is raised by the Ld. Counsel for the appellant is that income of the deceased should be Rs. 7,621/- as per Haryana minimum wages Act, and Tribunal took it as Rs. 8,070/- which is on higher side, has been rejected on the ground that as deceased-Herdev was 21 years old at the time of accident and B.Sc. Final year student and was a birght and an able bodied persons with sound physique and there is no strict criteria regarding fixed income as per minimum wages Act and do not require any intereferece towards income assessed by the Tribunal.

Secondly, learned counsel for the appellant argues that claimants awarded Rs.40,000/- towards love and affection is on higher side. To prove this fact, he put on realiance upon the judgment of Hon'ble Supreme Court in case titled as *National Insurance company limited versus Pranay Sethi and Others SLP (Civil) N. 25590 of 2014* and stated that compensation amount should be Rs. 30,000/- under the conventional heads. As per the findings of the Tribunal, compensation awarded under the conventional heads is Rs. 55,000/- (Rs. 40,000/- towards love and affection and Rs. 15,000/- towards last rites) and as per the case cited above the amount of compensation should be Rs. 30,000/-. Hence, the excess amount of compensation is to the extent of Rs. 25,000/- which is meager amount does not required to be recovered as the deceased was unmarried and a bright student.

Hence, after going through the findings of the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

Dismissed.

05.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No