

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1832 of 2002 (O&M)
Date of Decision: 17.09.2019

Surja @ Sarjo Devi and others

..... Appellants

Versus

Dharmender and others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

None for the respondents.

JAISHREE THAKUR, J. (ORAL)

1. This is an appeal that has been filed seeking enhancement of compensation that has been allowed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal') to the claimants herein on account of death of Krishan, son of Ram Parshad, who was 26 years old.

2. In brief, the facts are that Krishan (deceased) was employed with Parley Biscuits Factory at Bahadurgarh and was getting a monthly salary of ₹ 2,500/- per month. He was hit by a Tata Sumo bearing registration No. DL-3CD-5838, which was being driven by respondent No.1 Dharmender. Due to the collision, Krishan

received injuries and died at the spot. Three other workers, who were going on their respective bicycles, also suffered injuries and died. The claimants being the widow along with two minor children and mother of the deceased, filed a claim petition before the Tribunal. The claim petition was contested by respondent No.2, who put in an appearance and thereafter was proceeded ex parte. Respondent No.1 appeared through counsel but failed to file any written statement. Consequently, he too was proceeded ex parte on 09.05.2000. During the proceedings, Ashok Kumar filed an application for being impleaded as a party on the ground that the offending vehicle in question had been transferred in his favour. The said application was allowed and Ashok Kumar was reflected as respondent No.2-A. As the newly added respondent, he did not put in an appearance despite service, so he too was proceeded ex parte.

3. To prove their case, the claimants examined Amar Singh as PW-1, HC who brought the FIR Ex. PA regarding the accident. The claimant Roshni appeared as PW-2, who deposited that her husband, Krishan died in a roadside accident at the age of 26 years and he was working with the Parley Biscuit Factory and was earning ₹ 2,500/- per month besides bonus and other benefits. Dharambir, an eye witness was examined as PW-3, who deposed that he along with Krishan were going to the factory from village Sankhol on separate bicycles, deceased was ahead of him and when they reached in front of Surya Roshni Company, Bahadurgarh, a Tata Sierra vehicle

bearing registration No. DL-3D-5838 came from the opposite side which was being driven by respondent No.1 in a rash and negligent manner at a high speed, hit Krishan who was on his bicycle. He suffered injuries and died at the spot. Copy of the post mortem report was produced on the record as Ex. PB. The Tribunal on appreciation of the evidence and taking into account statement of the eye witness proceeded to decide the case and awarded a sum of ₹ 1,92,000/- as compensation. In the award, it was noted that the evidence produced by the petitioners was un rebutted since there was no representation on behalf of the driver of the vehicle as well as the owner. However, since there was cogent evidence on the record to substantiate that the deceased husband of the claimant was getting a sum of ₹ 2,500/- per month as salary, income of the deceased as per the Minimum Wages as prevalent at that time was taken as ₹ 1500/- per month treating him being unskilled labourer.

4. Learned counsel for the appellants contends that the compensation awarded by the Tribunal is wholly inadequate and not in consonance with the judgment of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.***

5. I have heard learned counsel for the appellants and have also gone through the case law as cited.

6. Admittedly, both the owner and the driver of the offending vehicle have not stepped into the witness box to rebut the

evidence as produced and the statement of the eye witness, neither have they challenged the award. Admittedly, the compensation that has been awarded is wholly inadequate and is not in consonance with *Pranay Sethi and others* case (supra). Hence, in terms of the judgment rendered by the Supreme Court in *Pranay Sethi and others* case (supra), compensation payable to the claimants is re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Krishan
(ii)	Date of accident	27.07.1998
(iii)	Age of the deceased	26 years
(iv)	Monthly income of the deceased	₹ 1500/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 1500 + ₹ 600)= ₹ 2100/- per month
(vi)	1/ ^{4th} of (v) above deducted towards personal expenses	(₹ 2100 - ₹ 525) = ₹ 1575/- per month
(vii)	Compensation calculated after applying the multiplier of 17	(₹1575 X 12 X 17) = ₹ 3,21,300/-
(viii)	Conventional heads i.e. loss of consortium and funeral expenses etc.	₹ 70,000/-
<i>Total</i>		₹ 3,91,300/-

7. In view of the above, the appeal is allowed and consequently the compensation awarded is enhanced from ₹ 1,92,000/- to ₹ 3,91,300/-.

8. The Insurance Company is directed to release the enhanced compensation in favour of the claimant-appellants with interest @ 7.5% per annum from the date of filing of the petition till realization in terms of the judgment rendered by the Supreme Court in *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma & Ors.*,

Civil Appeal No. 4528 of 2019 [SLP(C) No. 5720 of 2019] decided on 01.05.2019.

9. The award is modified and the appeal is disposed of in the above terms.

17.09.2019
Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes.
Whether reportable	No.