

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

FAO No.1664 of 2003 (O&M)
Date of Decision: August 26, 2019

Naresh and others

... Appellants

Versus

Pappu @ Manohar and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Jitender Dhanda, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.4-Insurance Company.

None for respondents No.1 to 3 despite service.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge the award dated 04.12.2002 passed by the Motor Accident Claims Tribunal, Fatehabad, wherein the appellants herein have been allowed compensation of ₹3,91,000/- on account of death of Dilbag Singh.

In brief, the facts are that on 21.04.2011 deceased Dilbag Singh started his journey from his house situated in village Samian, Tehsil Tohana on his scooter bearing registration No.HR23-9425 and when he reached near bus stand Samian, a truck bearing registration No.CH01-A-9011 being driven by respondent No.1 at a very high speed, in a rash and negligent manner, came from his back and struck in to his scooter. Deceased Dilbag

Singh fell down on the road, due to the impact his head and face came under the rear tyres of the offending truck and died at the spot. It was submitted that deceased was going on his scooter on extremely left side of the road at a moderate speed. With these averments, claim petition seeking compensation to the tune of ₹ 20 lacs was filed by the widow, children and mother of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action has accrued etc. It was submitted that no accident has taken place with truck No.CH01-A-9011. Issues were framed and thereafter evidence was led by the parties.

After scrutiny of the evidence brought on record, the Tribunal held that the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹3,91,000/-, which has been now challenged in the instant appeal.

Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the compensation amount awarded to the appellants deserves to be enhanced.

On the other hand, learned counsel appearing on behalf of respondent No.4—Insurance company submits that adequate amount of compensation has been awarded by the Tribunal and no interference is called for in the instant appeal.

I have heard learned counsel for the parties and perused the

impugned award.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 31 years of age and was earning ₹3000/- per month. The Tribunal deducted 1/3rd towards personal expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly taken the income of the deceased as ₹3000/- per month and applied the multiplier of 16. However, increase in income on account of future prospects at the rate of 40% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Therefore, compensation payable to the appellants are re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Dilbag Singh
(ii)	Date of accident	21.04.2001
(iii)	Age of the deceased	31 years, 04 months
(iv)	Monthly income of the deceased	₹ 3,000/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 3000+₹1200)= ₹ 4200/- per month
(vi)	1/5th of (v) above deducted towards personal expenses	(₹ 4200-₹840) = ₹ 3360/- per month
(vii)	Compensation calculated after applying the multiplier of 16	(₹3360X12X16) = ₹ 6,42,120/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹7,15,120/-

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 7,15,120/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the petition till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

August 26, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No