

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

FAO No. 3203 of 2003 (O&M)
Date of decision: 19.3.2019

Harnam Devi and others

...Appellants

Versus

Chanan Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. D.S. Nigha, Legal Aid Counsel
for the appellants.

Mr. V.K. Garg, Advocate,
for respondent No.3—Insurance Company.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award passed by the Motor Accident Claims Tribunal, Sonapat, wherein the appellants herein have been allowed compensation of ₹5,45,000/- on account of death of Bhupesh Sardana.

2. In brief, the facts are that on 17.9.2000 at about 6.30 p.m., the deceased Bhupesh Sardana was going on his Scooter bearing HR-20/0653 from Holy Hospital to his residence in Hisar. He was being followed by one Dharampal on his scooter. A truck bearing HR-24A/8418 being driven by respondent No.1 in rash and negligent manner hit Bhupesh Sardana from the behind, as a result of which, he received grievous injuries and ultimately succumbed to the injuries. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR 520

dated 17.9.2000 came to be lodged with the Police Station Civil Lines, Hisar. With these averments, a claim petition was filed by the widow, minor son and his parents claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was an Architect by profession and was earning ₹10000-12000 per month.

3. 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. Issues were framed and thereafter evidence was led by the parties.

4. 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 ₹5,45,000/- which has been now challenged in the instant appeal.

5. Learned counsel for the appellants 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.

6. On the other hand, learned counsel appearing on behalf of respondent No.3—Insurance company submits that adequate amount of compensation has been awarded to the appellants and as such no interference is called for in the instant appeal.

7. The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 32 years of age and was earning ₹50000/- per annum. 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 ₹50000/- per annum. Similarly, taking the age of the deceased as 32 years rightly applied the multiplier of 16 and awarded the amount of compensation, as mentioned above. 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	Bhupesh Sardana
(ii)	Date of accident	17.9.2000
(iii)	Age of the deceased	32 years
(iv)	Monthly income of the deceased (₹50000 annual÷12=₹4166.66) rounded off to ₹4167/-	₹ 4167/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 4167+₹1667)= ₹ 5834/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 5834-₹1944) = ₹ 3890/- per month
(vii)	Compensation calculated after applying the multiplier of 16	(₹3890X12X16) = ₹ 746880/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹8,16,880

8. 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 ₹ 8,16,880/- and the amount in excess over

what was awarded will also attract interest @7.5% from the date of the instant appeal till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

9. Before parting with the judgment, it is necessary to mention here that since none had appeared on behalf of the appellants, as such, Mr. Dhanvinder Singh Nigha, was appointed as Legal Aid Counsel by order dated 7.2.2019. Therefore, Secretary, High Court Legal Committee, is directed to make payment of fee to Mr. Dhanvinder Singh Nigha, as per rules.

10. Registry is directed to send a copy of this order be sent to the appellants.

19.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No