

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 98 of 2002 (O&M)
Date of decision : 8.1.2019

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Tejpal Singh and another

.....Appellants

vs.

Harmeet Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sham Lal Bhalla, Advocate for the appellants

Mr. Aseem Sharma, Advocate for respondent No.1.

Mr. Gopal Mittal, Advocate and
Mr. Ravinder Arora, Advocate for respondent No.3.

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H. S. Madaan, J. (Oral)

Petitioner - claimants Tejpal Singh- father, Amaravati-
mother of Mukesh Kumar, who died in a motor vehicular accident on
30.6.1998 at 5.45 P.M. near railway crossing, Sirhind, alleged to have
been caused due to rash and negligent driving of truck No. PIP 8693,
by respondent No.1 Harmeet Singh, driver, truck being owned by
respondent No.2 Gurdev Singh and insured with respondent No.3

Insurance company – United India Insurance Company Limited, Khanna, had brought a claim petition under Section 166 of the Motor Vehicle Act, 1988, for grant of compensation. According to the claimants their son Mukesh Kumar deceased was aged about 17 years and used to earn Rs.2,500/- per month by selling *pappad*. He was a bachelor and he used to give his earning to his parents – the claimants. They had claimed a compensation of Rs. 6 lacs.

Notice of the claim petition was given to the respondents, who put in appearance and filed written statements contesting the claim petition. Issues on merits were framed and vide award dated 17.8.2001, the Motor Accident Claims Tribunal, Fatehgarh Sahib, taking age of the deceased to be 17 years and his monthly income to be Rs.1,500/-, self expenses to the extent of 1/3rd, applying the split multiplier of Rs.1000/- for 8 years ($1000 \times 12 \times 8 = 96,000$) and Rs.800/- for remaining 4 years ($800 \times 12 \times 4 = 38,400$), had granted total compensation of Rs.1,40,000/- with interest @ 9% from the date of claim petition till realisation, liability of all the three respondents being joint and several. However, it had been observed that Insurance company would be at liberty to recover the amount from respondents No. 1 and 2.

The claimants were dissatisfied with the compensation granted by the Motor Accident Claims tribunal, and have approached this Court for enhancement of the same by way of filing the present appeal, notice of which was given to the respondents, who have put in appearance through counsel.

At the very outset, it may be mentioned that learned counsel for the parties are unanimous that case is covered by the ratio of authority reported as *National Insurance Company Limited vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009*, by a Constitution Bench of the Apex Court. In terms of this authority, the claimants are entitled to get compensation on account of future prospects, which has not been granted to them by the Tribunal. As such in the monthly income of the deceased, an addition of 40% is to be made keeping in view his age and nature of work. Thus his monthly income is worked out to be Rs.1,500/- + 40% = Rs.2,100/-. Since he was a bachelor, a sum of 50% is to be deducted towards his personal expenses. The dependency of the claimants as such comes out to be Rs.1,050/- per month. Annual dependency comes out to be Rs.1,050 x 12 = Rs.12,060/-. Considering age of the deceased, a multiplier of 18 was required to be applied and the Tribunal fell in error by using split multiplier. Thus, the total dependency comes out to be Rs.2,26,800/-. The claimants are entitled to get Rs.15,000/- on account of loss of estate and Rs.15,000/- on account of funeral expenses. Thus total amount comes out to be Rs.2,56,800/-. After deducting the amount of Rs.1,40,000/- already awarded by the Tribunal, the Additional compensation comes out to be Rs.1,16,800/-.

Under the circumstances, the appeal in question is accepted and an additional compensation of Rs.1,16,800/- is awarded to the claimants with interest @ 7.5% per annum from the date of filing of appeal till actual realisation. The other terms and conditions of

payment shall remain the same as directed by the Tribunal in the original award.

The appeal is accepted with costs.

8.1.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No