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

FAO No. 946 of 2002 (O&M)
Date of decision: 19.9.2019

Smt. Darshana Rani and others

...Appellants

Versus

Om Pal and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Govind Rana, Advocate, for
Mr. Harkesh Manuja, Advocate,
for the appellants.

Mr. Suvir Dewan, Advocate,
for respondent No.3—Insurance Company.

JAISHREE THAKUR, J.

This appeal seeks to challenge the award dated 15.10.2001 passed by the Motor Accident Claims Tribunal, Sonepat, whereby the appellants herein have been allowed compensation of ₹2,01,600/- on account of death of Ashok Kumar.

In brief, the facts are that on 20.6.2000 deceased Ashok Kumar was going from Sonepat to Bahalgarh, when he was hit by a Jeep bearing registration No. HR-46A-6233, being driven by respondent No.1 in rash and negligent manner. The impact of the accident was such that Ashok Kumar died on the spot. It was alleged that the accident took place due to rash and negligent driving of respondent No.1 and consequently FIR No. 174 dated 20.6.2001 under Sections 279/304-A IPC came to be lodged with the Police

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Station Rai. With these averments, claim petition was filed by the legal heirs of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was earning ₹ 12,000/- per month.

The claim petition was contested by the respondent i.e. the driver and owner of the offending vehicle, inter-alia, taking preliminary objections that no accident as alleged took place. However, it was pleaded that the offending vehicle was insured with the Insurance Company. Issues were framed and thereafter evidence was led by the parties in order to substantiate their respective claims.

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 produced before it allowed compensation of ₹2,01,600/-, which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the same deserves to be enhanced. It is submitted that the Tribunal has not taken the income of the deceased at ₹12,000/- per month as claimed by the claimants. It is further submitted that the Tribunal has not awarded any amount on account of future prospects. It is also submitted that multiplier of 15 ought to have been applied instead of 14 as the deceased was 39 years old.

On the other hand, learned counsel appearing on behalf of respondent No.3 submits that adequate compensation has already been

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allowed to the appellants by the Tribunal and, therefore, there is no occasion for enhancement of the same.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 39 years of age and assessed his monthly income at ₹1800/- as per Minimum Wages notified at the relevant time. The Tribunal held that not even an iota of evidence produced to prove the fact that the deceased was earning ₹12,000/- per month. From the evidence so produced, it is evident that the claimants were not able to establish on the record that the deceased was earning ₹12,000/- per month and thus the Tribunal has rightly taken the income of the deceased at ₹1800/- per month. The Tribunal deducted 1/3rd towards personal expenses and living of the deceased though the Tribunal ought to have deducted 1/4th towards personal expenditure of the deceased and similarly multiplier of 15 ought to have been applied, keeping in view the age of the deceased at 39 years, in view of the judgments rendered by the Hon'ble Supreme Court in **Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 SCC 121 and National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.** Apart from that, 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 is re-worked and tabulated as under:-

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Sr. No.	Heads	Calculation
(i)	Name of the deceased	Ashok Kumar
(ii)	Date of accident	20.6.2000
(iii)	Age of the deceased	39 years
(iv)	Monthly income of the deceased	₹ 1800/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 1800+₹720)= ₹ 2520/- per month
(vi)	1/4th of (v) above deducted towards personal expenses	(₹ 2520-₹630) = ₹ 1890/- per month
(vii)	Compensation calculated after applying the multiplier of 15	(₹1890X12X15) = ₹ 3,40,200/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹4,10,200

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 appellants/claimants shall be ₹ 4,10,200/- 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.

19.9.2019 **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No

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