

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

FAO-2873-2001 (O&M)

Date of Decision: October 01, 2019

Mohinder Ram and others

Appellants

Versus

Sunil Kumar and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. S. Budhwar, Advocate
for the appellants.

None for respondent Nos.1 and 2.

Mr. Sandeep Suri, Advocate
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge the award dated 15.02.2001 passed by the Motor Accident Claims Tribunal, Kurukshetra, wherein the appellants herein have been allowed compensation of ₹3,16,700/- on account of death of Nikka Ram son of the appellant No.1 & 2 and husband of appellant No.3.

In brief, the facts are that on 04.03.1999 at about 09.30 a.m., Nikka Ram was pedalling the cycle from village Yara to Shahabad while Tarsem @ Sham Lal was a pillion rider on it. When they reached at the 'T' junction leading from this road to village Yari, truck-trailer loaded with tractors, bearing registration No.HR-37/5121 hit into their cycle from behind and due to this impact, the cyclists were run over by the offending

truck-trailor. Nikka Ram succumbed to his injuries. It was alleged that the accident took place solely due to the rash and negligent driving of respondent No.1 as stated by eye witness-Jora Singh. The police registered an FIR No.79 dated 04.03.1999 under Sections 279/304-A of the IPC in Police Station Shahabad, District Kurukshetra. With these averments, a claim petition was filed by the parents and the widow of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was 20 years old, working as a labourer and was also engaged in milk dairy and earning a sum of Rs.5000/- per month and claimed a compensation of Rs.6 lakhs.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable and that the accident did not take place due to alleged rash and negligent driving of respondent No.1 rather the victims were themselves responsible for this accident. Issues were framed and thereafter evidence was led by the parties. In order to substantiate the claim, appellant No.3 stepped into the witness box as PW4 and eye-witness-Jora Singh as PW-2.

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 ₹3,16,700/- along with interest @ 12% per annum which has been sought to be enhanced in the instant appeal.

I have heard learned counsel for the parties and gone through the pleadings of the case.

The Tribunal, after examining the evidence produced by the

respective parties held that the deceased was 20 years of age. 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 ₹2400/- per month. 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**. Keeping in view the number of dependents, 1/3rd deduction should have to be made on his income for personal expenses. Therefore, compensation payable is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Nikka Ram
2	Date of accident	04/03/99
3	Age of the deceased	20 years
4	Monthly income of the deceased	2400/- per month
5	40% of (iv) is to be added towards future prospects	(2400+960) =3,360/-
6	1/3 rd of (v) above deducted towards personal expenses	(3360-1114) =2246/-
7	Compensation calculated after applying the multiplier of 18	2246x12x18= 4,83,840/-
8	Conventional heads	70,000/-
9	Total : (7+8)	5,53,840/-

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable is assessed at ₹5,53,840/-. The amount in excess over and above what was awarded will also attract interest @7.5% per annum from the date

of filing of the appeal in this Court till the date of payment. The amount of compensation shall be payable to appellant No.3-widow only.

October 01, 2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No