

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

202

FAO-3150-2001

Date of Decision : November 13, 2019

ISHWAR SINGH AND ANR

.....Appellants

VERSUS

SUBHASH AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Kulvir Narwal, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent-Insurance Company.

NIRMALJIT KAUR, J. (Oral)

The present appeal is filed against the impugned award dated 28.5.2001 for enhancement of the amount granted to the extent of only Rs.60,000/- and that too only towards the medical expenses by ignoring that the injured-deceased subsequently succumbed to his injuries in pursuance to the accident.

Perusal of the award shows that nothing was awarded beyond medical expenses incurred by the injured, who subsequently succumbed to his injuries by holding that there was no evidence on record to show that his death was on account of the injuries suffered during the accident whereas the evidence shows otherwise.

It is admitted that the deceased was admitted in the hospital on 11.12.1998 on account of the injuries suffered in the accident. He was discharged on 12.2.1999. Thereafter, he was once again admitted on

17.7.1999 and died in the hospital itself on 16.8.1999. The Tribunal erred in not taking into consideration the evidence of PW5 Dr. Balwinder Singh. He was serving as House Surgeon in General Surgery Ward in PGIMS, Rohtak. He appeared as PW5 and stated in no uncertain terms that while serving as a House Surgeon in the ward where the deceased was admitted, he saw that the deceased was undertaking treatment in the ward for wounds on the legs. Admittedly, the said wounds on the legs were on account of the said accident. Being a case of multiple injuries suffered by him, the injured was earlier also admitted on 11.12.1998 when he underwent operation. Infact, on cross-examination, PW5 Dr. Balwinder Singh further stated that the deceased died on account of the said injuries sustained by him in the road accident. The examination-in-chief as well as cross-examination of Dr. Balwinder Singh is reproduced under:-

“I was serving as House Surgeon in Ward No.5/III, Surgery, P.G.I. M.S., Rohtak. Rajesh son of Ishwar Singh male, 20 years, resident of village Baliyana, was under treatment in this ward for wounds on the legs. It was a case of receipt of multiple injuries on 11.12.1998 in some roadside accident. He was earlier operated upon in Orthopaedics Department. On 16.8.1999, he expired in the hospital itself, while under treatment. I have brought the treatment record and is Ex.PW5/A and produced it.

xxxxxn by the counsel for the respondents.

It is incorrect to suggest that Rajesh had not died because of the injuries he sustained in the accident and that I am deposing falsely.”

Even otherwise, the gap between the accident and the period while he remained admitted in the hospital and the time between subsequent death is not much. This removes any doubt qua the cause of the death. There is no reason to disbelieve the statement of the concerned doctor. The entire circumstances and the events speak for themselves. There is no other cause of death apparent on record specially taking into account that the age of the deceased was only 19 years. The injuries were on the legs. He was admitted second time only on account of the wounds on the legs. The deceased-injured subsequently died on account of the injuries suffered in the accident on 11.12.1998. Therefore, the findings to the said extent of the Tribunal are set-aside vide which it was held that cause of death could not be established.

In view of the above, the appellants are held entitled to the enhancement as per the well settled law laid down by the Hon'ble Apex Court in the case of **National Insurance Company Limited vs. Pranay Sethi and others**, 2017 AIR(SC) 5157. The notional income is, accordingly, taken as Rs.2,000/- per month taking into account that the deceased was a student of ITI at that point of time. The appellants are also entitled to 40% future prospects. The deduction of 50% is required to be applied taking into account that he was unmarried. The deceased was 19 years of age, therefore, the multiplier of 18 has to be applied. Nothing has been awarded under the conventional head which should be Rs.70,000/- as per Pranay Sethi's case (supra). The injured remained in the hospital for almost three months alongwith continuation of the

treatment in the hospital. Accordingly, the appellants are also entitled to another amount of Rs.1,00,000/- towards the expenses incurred towards attendant and transportation during the period in hospitalization.

In view of the above, the appellants-claimants are entitled to the enhanced amount as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	Rs.2000/- p.m.
2	Future prospects @ 40%	2000 @ 40% = 800 2000+800 = 2800
3	Dependency 1/2 nd	2800 @ 1/2 rd = 1400
4	Multiplier	1400 x 12 x 18 = Rs.3,02,400/-
5	Conventional Heads	Rs.70,000/-
6	Attendant and transportation	Rs.1,00,000/-
7	Total	Rs.4,72,400/-
8	Compensation awarded by the Tribunal	Rs.60,000/-
9	Differences	Rs.4,12,400/-

Accordingly, the present appeal is allowed to the said extent. The enhanced amount of Rs.4,12,400/- be deposited within two months from the receipt of certified copy of this order alongwith interest @ 6% per annum from the date of the claim petition till its realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

November 13, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.
Whether Reportable.

:
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Yes/No
Yes/No