

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

**FAO-1344-2004 (O&M)
Date of decision : 4.7.2019**

Hardeep Kaur and others

.....Appellants

Versus

Umrao Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Amit Kumar Jain, Advocate for the appellants.

Mr. Amrinder Singh Sidhu, Advocate with
Mr. Aman Mittal, Advocate for respondent No.3

KULDIP SINGH, J.

Heard.

Claimants-appellants have preferred the present appeal against the Award dated 16.10.2003, passed by Motor Accident Claims Tribunal, Jind (for short 'the Act') vide which compensation to the tune of Rs. 3,49,800/- was awarded to the claimants-appellants.

Facts of the case are that on 12.9.1998 at 6. A.M., Amrik Singh, a truck driver by profession, while driving truck bearing registration No. DL-IG-2619 was hit by the offending bus bearing registration No. GJ-IV-1046 being driven by respondent No. 1-Umrao Singh. As a result of the accident, cabin of the truck was broken and Amrik Singh driver of the truck sustained grievous injuries and died on the spot. Claimants-appellants are the widow-Hardeep Kaur, minor son-Nishan Singh and father-Gian Singh of the deceased. At the time of accident deceased was 35 years of age. It is claimed that Amrik Singh was earning Rs. 6,000/- per month.

Respondents in the reply denied the accident as well as the income of the deceased.

From the pleadings following issues were framed: -

1. Whether the respondent No. 1 Umrao Singh while driving the bus No. GJ-IV-1046 rashly and negligently as on 12.9.98 in the area of National Highway No. 8 near hotel of Mangi Lal, P.S. Goverdhan Bilas, District Uday Pur (Rajasthan) caused the accident resulting into death of Amrik Singh of Village Dharam Garh Boli, the. Safidon, Distt. Jind as alleged? OPP.
2. Whether the petitioners are entitled for compensation, if so, what amount and from whom? OPP.
3. Whether the respondent no. 1 was not holding a valid and effective driving license at the time of occurrence, if so to what effect? OPR.
4. Relief.

The Tribunal took the view that the deceased was working as a driver. Though, claimant-appellant No. 1 had claimed that her husband was earning Rs. 6,000/- per month but in the absence of proof, the Tribunal took the income of the deceased to be Rs. 2500/- and applied the multiplier of 16. Rs. 2,000/- were awarded for cremation charges and Rs. 5,000/- were awarded for consortium. Hence, total compensation was awarded to the tune of Rs. 3,49,800/- along with interest @ 9 % per annum from the date of institution of claim petition till realization of the award amount.

I am of the view that so far as the income of the deceased is concerned, there is no illegality or infirmity in the same. There is no proof

that the deceased was having higher income. The Tribunal took the income as Rs. 2500/- per month.

In view of law laid down by a Constitution Bench of the Hon'ble Supreme Court in *National Insurance Company Limited Versus Pranay Sethi and others*, 2017 (4) RCR (Civil) 1009, the future prospectus to the extent of 40% are to be added which comes to Rs. 1,000/-. The total income of the deceased comes to Rs. 3500/- and after deducting 1/3rd i.e., Rs. 1166/- as personal expenses of the deceased, the dependency of the claimants-appellants comes to Rs. 2334/- Therefore, after applying the multiplier of 16, the total amount of compensation comes to Rs. 2334 x 12 x 16 which comes to Rs. 4,48,128/-. Rs. 70,000/- are allowed under the conventional head.

As per the law laid down by Hon'ble Supreme Court in *Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram and others*, 2018/ (4) RCR (Civil) 333, Rs. 40,000/- each are allowed to claimants-appellants No. 2 & 3 i.e. the minor son and father of the deceased. Hence, the total compensation comes to Rs. 5,98,128/-. The enhanced compensation was to be paid with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

Appeal stands allowed accordingly.

(KULDIP SINGH)
JUDGE

4.7.2019
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Whether speaking / reasoned
Whether Reportable:

Yes/No
Yes/No