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

FAO No.1724 of 2004
Date of Decision: 09.12.2019

Daljit Kaur and others

.....Appellants

Versus

Baljinder Singh @ Sukhwinder Singh and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. A.S. Syan, Advocate
for the appellants.

Mr. Bhavyadeep Walia, Advocate
for respondent Nos.1 and 2.

Mr. Karminder Singh, Advocate for
Mr. P.S. Walia, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (ORAL)

The present appeal has been filed for enhancement of compensation granted vide award dated 01.12.2003, passed by the Motor Accident Claims Tribunal, Patiala (for short, the Tribunal).

While praying for enhancement, learned counsel for the appellants submitted that the age of deceased was only 35 years, whereas, no future prospects have been given, which should have been 40%. Further, no amount has been granted under the conventional heads, which again should have been ₹70,000/-.

Learned counsel for the respondents are not in a position to dispute the same in view of the well settled proposition of law rendered by Hon'ble the Apex Court in case National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680.

In view of the above, the appellants are entitled to 40% future prospects and ₹70,000/- under the conventional heads.

Learned counsel for the appellants has further argued that deduction of 1/3rd was made twice over by the Tribunal. The deduction of 1/3rd was already made, which was rightly done but another 1/3rd deduction was made without assigning any reason by simply stating that the National Insurance Company is not liable, whereas, it is not disputed that the appellants/claimants cannot be deprived of the compensation. In case the insurance company is not liable, the same has to be paid by respondent Nos.1 and 2 but it cannot be deducted from the share of the appellants/claimants. Accordingly, the impugned award dated 01.12.2003 to the extent vide which, 1/3rd deduction has made for the second time is set aside.

The enhanced amount of ₹3,00,832/- be paid to the appellants as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹2460/- per month
2	Deduction	1/3rd 1/3rd of 2460 = ₹820/- 2460 – 820 = ₹1640/-
3	Future Prospects	40% (1640 x 40% = ₹656) ₹1640 + 656 = ₹2296/-
4	Multiplier	16 2296 x 12 x 16 = ₹440832/-
5	Conventional Heads.	₹70,000/-
6	Total	₹5,10,832/-
7	Compensation awarded by the Tribunal	₹2,10,000/-
8	Differences	₹510832 – 210000 = ₹3,00,832/-

Thus, the enhanced compensation of ₹3,00,832/- be paid to the appellants, as already held by the Tribunal, within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition till its realization.

In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

09.12.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No