IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5650 of 2005 (O&M)
Date of Decision: 25.09.2019

Harjinder Kaur and others

...... Appellants

Versus

Angrej Singh and others

..... Respondents

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CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. L.S. Lakhanpal, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate, for
Mr. Ravinder Arora, Advocate,
for respondent No. 3.

None for the remaining respondents.

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JAISHREE THAKUR, J.

1 This is an appeal that has been filed by claimant-appellants seeking to challenge the award 10.09.2005 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') on the ground that meager compensation has been awarded for an accident that took place.

2. In brief, the facts are that on 21.07.2003 at about 4.00 p.m. a TATA-407 bearing registration No. DL-1-LE-4804 being driven by respondent No.1 came from Saha side without blowing any horn and hit the motorcycle No. HR-01-H-2065 which was being

driven by Jasvinder Singh from the back side. As a result of the impact, he fell down on the road and was crushed by the back wheel of the said TATA-407. After the accident, driver of the offending vehicle i.e. respondent No.1, stopped his vehicle for some time and after seeking the serious condition of the injured, he ran away from the spot. Jasvinder Singh was shifted to Civil Hospital, Shahabad and thereafter shifted to PGI, where he succumbed to his injuries. A claim petition was filed seeking compensation, which was contested by respondents No.1 & 2 who jointly filed the written statement denying all averments made in the claim petition. It was pleaded that no such accident took place due to the negligent driving of respondent No.1 and in fact the accident was caused due to the negligence of the deceased himself. Both parties adduced evidence in support of the contentions raised and thereafter on appreciation of the same, the claim petition was allowed. The Tribunal allowed ₹ 4,01,000/- as compensation payable to the claimants being, widow and minor children of the deceased. The income was taken at ₹ 3,000/- per month and deduction of 1/3rd was allowed for personal expenses with a multiplier of 16.

3. The claimants were able to prove their case by examining witness, which finding has not been challenged either by the owner, driver of the offending vehicle or by the Insurance Company. Therefore, it is only the question of adequacy of quantum that has to be assessed as to whether it is adequate or not. The

contention raised by the counsel that the deceased had 21 acres of land and was also doing the business of dairy farming and earning ₹ 10,000/- per month from the same, cannot be taken into consideration as there is no income proof on the record. Moreover, the deceased at best could be held to be a Manager of the said holdings since the land would continue to be in possession and ownership of the family of the deceased, from which they would still get an income. However, the income assessed at ₹ 3,000/- would be on the lesser side. It is also not in dispute that the Tribunal has not allowed an increase towards future prospects in terms of the ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009***. The Tribunal has erred in awarding only ₹ 10,000/- as medical expenses ignoring the fact that the accident took place near village Ram Nagar, District Kurukshetra on 21.07.2003 and because of the serious condition of the injured, he was shifted to PGI, Chandigarh where he remained admitted till 25.07.2003, where he succumbed to his injuries. Merely because the claimants were not able to produce all the medical bills towards expenditure incurred, they could not be denied adequate compensation for the same. The Court can always take judicial notice of the fact that the injured was in hospital for five days before he succumbed to his injuries and the expenses for his transportation from Shahabad to Chandigarh and daily expenditure to meet the medical expenses would have been more than ₹ 3,000/- per day. Consequently, on account of the medical expenses incurred along with the transportation, the claimants would be entitled to ₹ 20,000/-.

4. It is not in dispute that deceased was 36 years of age and according to his age, the multiplier of 15 is just and proper. The income of the deceased should be taken as ₹ 5,000/- as there was no proof regarding his income. Further increase of 40% towards future prospects would be justified and by adding the same, the annual income of the deceased comes out to ₹ 7,000/-. Keeping in view the fact that there were four dependents upon him, the personal expenses of 1/4th should be deducted and hence, the dependency would be ₹ 5,250/-. Therefore, compensation payable to the claimants-appellants is re-worked and tabulated as under :-

Sr. No	***Heads***	***Calculation***
(i)	Name of the deceased	Jasvinder Singh
(ii)	Date of accident	21.07.2003
(iii)	Age of the deceased	36 years
(iv)	Monthly income of the deceased	₹ 5,000/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 5,000 +₹ 2,000) = ₹ 7,000/- per month
(vi)	1/4th of (v) above deducted towards personal expenses	(₹ 7,000 - ₹ 1,750) = ₹ 5,250/- per month
(vii)	Compensation calculated after applying the multiplier of 15	₹ 5,250 x 12 x 15 = ₹ 9,45,000/-
(viii)	Conventional heads i.e. loss of consortium and funeral expenses.	₹ 70,000/-
	Total	₹10,15,000/-

5. In view of the above, the appeal is allowed and consequently the compensation awarded is increased from ₹

4,01,000/- to ₹10,15,000 /-.

6. The Insurance Company is directed to release the enhanced compensation in favour of the claimant-appellants with interest @ 7.5% per annum from the date of filing of the petition till realization in terms of the judgment rendered by the Supreme Court in ***Dara Singh @ Dhara Banjara vs. Shyam Singh Varma & Ors., Civil Appeal No. 4528 of 2019 [SLP(C) No. 5720 of 2019]*** decided on 01.05.2019.

7. The award is modified and the appeal is allowed to the above extent.

25.09.2019 **(JAISHREE THAKUR)**
Satyawan **JUDGE**

Whether speaking/reasoned Yes.

Whether reportable No.