

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

FAO-42-2008 (O&M)

Date of decision: 16.01.2019

Charanjit Kaur widow of deceased Balbir Singh and others

...Appellants

Versus

Beeru and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Rahul Vats, Advocate
for the appellants.

None for respondent Nos. 1 & 2.

Mr. D.S. Adlakha, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

One Balbir Singh, aged about 40 years, died in a motor vehiclular accident on 14.08.2004 in the area of village Takauli, Sub Tehsil Aut, allegedly on account of rash and negligent driving of Mahindra Jeep bearing No.HR-34-0462 by respondent No.1-Beeru. Sohan Lal Kapoor happened to be owner of that jeep which was insured with respondent No.3-The United India Insurance Company Ltd. Legal representatives of Balbir Singh deceased, namely Charanjit Kaur-wife, minor daughter Satinder Kaur and minor son Harjot Singh had filed a petition under Section 166 of the Motor

Vehicles Act, 1988 claiming compensation on account of death of Balbir Singh in the mishap. After contest that claim petition was allowed by Motor Accidents Claims Tribunal, Chandigarh, vide award dated 11.08.2007 and a compensation of Rs.5,36,000/- with interest @ 7.5% was awarded to the claimants. The tribunal had taken the age of deceased to be 40 years, his monthly income Rs.6000/- and had applied multiplier of 11 while calculating the compensation.

Feeling dissatisfied with the award, the claimants have approached this Court seeking enhancement of the amount awarded towards compensation.

Notice of the appeal was given to the respondents, who put in appearance through counsel.

I have heard learned counsel for the appellant/claimants and respondent No.3 besides going through the record.

At the very outset, it may be mentioned that the case is squarely covered by ratio of the authority **National Insurance Company Limited Vs. Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009, by a Constitutional Bench of Hon'ble Supreme Court of India. The Tribunal had not awarded any amount towards future prospects. In view of the ratio of authority National Insurance Company Limited (supra), an addition of 40% of the monthly income is required to be made towards future prospects, therefore,

monthly income of deceased is taken to be Rs.6000 + Rs.2400 i.e. Rs.8400/-.

As regards expenses which the deceased would have incurred for himself, the tribunal has made deduction to the extent of $\frac{1}{3}^{\text{rd}}$, keeping in view the fact that number of dependent family members was 3, the tribunal had rightly done so. Therefore, the dependency of the claimants comes out to be (Rs.8400 – Rs.2800) = Rs.5600/- and annual dependency comes out to Rs.67,200/- (Rs.5600X12).

The tribunal has applied multiplier of 11, however, keeping in view the age of the deceased and in view of the authority by apex Court **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr.**, 2009(3) RCR (Civil) 77, multiplier of 15 ought to have been applied. Doing that the compensation amount is worked out to Rs.10,08,000/- (Rs.67,200X15). As observed in judgment National Insurance Company Ltd. Vs. Pranay Sethi and others (supra), the claimants are entitled to get a sum of Rs.15000/- towards loss of estate. Claimant No.1 Charanjit Kaur having suffered loss of husband is entitled to get a sum of Rs.40,000/- towards loss of consortium. Claimants are found to be entitled funeral expenses to the extent of Rs.15,000/-, total amount of Rs.70,000/-. Adding that sum, the claimants are found entitled to get a sum of Rs.10,78,000/- as compensation. The tribunal has awarded a sum of Rs.5,36,000/-

to them, in that way, an additional compensation of Rs.5,42,000/- is awarded to the claimants.

The appeal is accepted accordingly and an additional compensation of Rs.5,42,000/- is awarded to the claimants in the same ratio and on the same terms & conditions as given in the original award. The claimants would be entitled to get interest @ 7.5% on the additional amount from the date of filing of appeal till actual realization besides costs of the appeal.

Disposed of accordingly.

16.01.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No