

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

FAO-4982-2008 (O&M)

Date of Decision: 16.09.2019

Laxmi Jena and Others

Appellants

Versus

Kulwant Singh and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- None for the appellant.

Mr. Karan Singla, Advocate and
Mr. Hitesh Sood, Advocate
for respondent No. 2-PRTC.

Mr. Gopal Mittal, Advocate
for respondent No.5.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge award dated 01.10.2008 passed by the Motor Accident Claims Tribunal, Chandigarh, wherein the appellants herein have been allowed compensation of Rs. 4,53,500/- on account of death of Duryadhan alias Duryana Jena.

In brief, the facts are that on 03.09.2003, deceased Duryadhan, was going to Patiala to deliver apples in a hired canter bearing registration No. HP-16-1639 and Duryadhan was the conductor of the said canter. When the canter crossed Banur towards Rajpura, a PRTC bus bearing No. PB-11-S-5476 was going ahead of the canter and was being driven rashly and negligently by respondent No.1, who applied sudden brakes and due to

which, the canter rammed into the bus. Due to the fatal accident, Duryadhan got serious injuries and due to those injuries he died after two years. It was alleged that the accident took place solely due to the rash and negligent driving of respondent No.1. With these averments, claim petition was filed by the legal heirs of Duryadhan i.e. Laxmi Jena and others claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was earning Rs. 6000/- per month. It was further pleaded that the said PRTC bus was driven by respondent No.1 and owned by respondent No.2. Canter was owned by respondent No.3 and was insured with respondent No. 5 and all the said respondents are liable to pay the compensation.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no FIR was lodged and that the accident did not take place due to alleged rash and negligent driving of respondent No.1.

After appreciating the evidence brought on record, the Tribunal held that the accident was the result of rash and negligent driving of Nirmal Singh, the driver of canter-respondent No.1, due to which Duryadhan sustained multiple injuries which led to his death later. The Tribunal awarded a compensation of ₹4,53,500/- to the claimants/appellants vide its award dated 01.10.2008. The appellants through the present appeal sought to enhance the aforesaid compensation, which they claim to be on the lower side.

I have heard learned counsel for the parties and gone through the pleadings of the case.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 28 years of age and was earning ₹2500/- per month. The Tribunal deducted 1/3rd towards personal expenses of the deceased, which is also correct. The Tribunal while taking the age of the deceased as 28 years wrongly applied the multiplier of 15, which should rather have been 17. However, increase in income on account of future prospects at the rate of 40% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Therefore, the compensation payable to the appellants is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Duryodhan
2	Date of accident	03/09/03
3	Age of the deceased	28 years
4	Monthly income of the deceased	2500/- per month
5	40% of (iv) is to be added towards future prospects	(2500+1000) =3500/-
6	1/3 rd of (v) above deducted towards personal expenses	(3500-1166) =2334
7	Compensation calculated after applying the multiplier of 17	2334x17x12= 4,76,136/-
8	Conventional heads	70000/-
9	Medical expenses by the High Court	1,53,500/-
10	Total : (7+8+9)	6,99,636/- rounded up to ₹7,00,000/-

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation

payable to the claimants shall be ₹7,00,000/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of filing of the appeal in this Court till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal. The enhanced compensation to be paid as per the liability fixed by the Tribunal itself.

September 16, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No