

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2595 of 2009(O&M)

Date of Order:10.01.2019

Anita Kumari and others

..Appellants

Versus

Jagdev and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. Vinod Chaudhari, Advocate,
for Mr. Rohit Goswami, Advocate,
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

Claimants i.e. widow, 2 minor children and mother are in the appeal seeking enhancement of the compensation. Late Sh. Harnam Singh, who was employed as a clerk with Life Insurance Corporation of India had died in an accident which took place on 02.01.2005. The only issue which requires determination is “what is the appropriate compensation payable.”

Learned counsel for the appellants has submitted that the learned Motor Accident Claims Tribunal, Chandigarh, (hereinafter referred to as 'the Tribunal') has committed an error by applying a cut of 1/3rd, although, there were total 5 members of the family and there were 4 dependents and hence deduction on account of own expenses could at the most be 1/4th. He further submitted that the learned Tribunal has not added 30% of the income towards future prospects as laid down in the case of **National Insurance Company Limited vs. Pranay Sethi and others, JT 2017(10) SC 450.** He further submitted that the learned Tribunal has further

committed an error in applying of multiplier of 13 instead of 14 keeping in

view the age of the deceased to be 44 years. He further submitted that under the conventional heads i.e. funeral expenses, loss of consortium and loss of estate, the learned Tribunal has only awarded Rs.12,000/-, which should be Rs.70,000/-.

On the other hand, learned counsel for the Insurance Company has submitted that last drawn salary of the deceased was Rs.8158.77 as per Ex.P4 and therefore, future prospects have already been taken care of.

This court has considered the submissions.

As regards salary, the deceased was promoted during his life time on 21.12.2004. After 12 days he died, therefore, he did not have actual salary during his life time. However, sufficient evidence has come on record which proves that had he been alive, his salary would be Rs.10,154/-. In these circumstances, there is no force in the submission of learned counsel for the respondent.

As regards arguments of learned counsel for the appellants, all the submissions are based upon various judgments passed by the Hon'ble Supreme Court including that of *Sarla Verma and others vs. Delhi Transport Corporation and Another, (2009) 6 SCC, 121* and *Pranay Sethi and others (supra)*.

Learned counsel for the appellants has further submitted that the learned Tribunal had ordered deposit of the entire amount in Fixed Deposits. He submitted that by now 2 claimants, namely, claimant no.2 and 3 are nearing marriageable age.

Keeping in view the aforesaid facts, liberty is granted to the appellants to move an application before the learned Tribunal for release of the amount qua all the claimants.

Keeping in view the aforesaid facts, the compensation is enhanced. Details of enhancement are given as under:-

<i>Heads</i>	<i>Compensation awarded by MACT</i>	<i>Compensation awarded by Hon'ble High Court</i>
Income Assessed	Rs.10,154/-	Rs.10,154/-
Annual Income	-	Rs.1,21,848/-
Standard Deduction	NIL	Rs.30,000/-
(it will be 40% or 30,000/- whichever is less)		Rs.91,848/-
Income Tax		Exempted
0-50,000/-		1000 (10,000 @ 10%)
50,000-60,000/- @ 10%		(31,848 x 20%=63,696/-)
60,000-1,50,000 @ 20%		
Total Tax	Nil	Rs. 7,369.60/-
Income after deduction of tax		Rs.1,14,478.00/-
(+) 30% future prospects	NIL	Rs. 34343
(-) 1/4 th deduction	Rs.3385/-(1/3 rd) = 10154-3385=6769/-	Rs.1,14,478+34,343= Rs.1,48,821/- Rs.37,205/-=1,11,616/-
Multiplier	Rs.6769x12x13=10,55,964/-	Rs.1,11,616x14=15,62,624/-
Conventional Heads		
Funeral Expenses	Rs.2,000/-	Rs.15,000/-
Loss of Estate	NIL	Rs.15,000/-
Consortium	Rs.10,000/-	Rs.40,000/-
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	Rs.10,67,964	Rs.16,32,624/-

The compensation awarded by the High Court= 16,32,624-00

Already compensation awarded by MACT =10,67,964-00

Enhanced Compensation = 5,64,660-00

The enhanced compensation shall be paid with interest @ 7.5% from the date of claim petition till payment.

January 10, 2019
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No