

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

**FAO No.2872 of 2011(O&M)
Date of Decision: 19.08.2019**

Kavita Devi and others

....Appellants

Versus

Mubarak Ali and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Shekhar Kumar, Advocate for
Mr. Siddharth Batra, Advocate
for the appellants.

Mr. Sandeep Saini, Advocate for
Mr. Puneet Sharma, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.

[1]. This appeal has been preferred by the claimants/appellants against the award dated 03.11.2010 passed by the Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal'), whereby an amount of Rs.12,40,000/- was awarded in favour of the appellants along with interest @ 7.5% per annum from the date of filing of claim petition till final realisation of the amount. Apportionment of the awarded amount was ordered as per relief clause shown in the award.

[2]. Claimants/appellants filed claim petition on account of

death of Anil aged 28 years in a vehicular accident on 03.05.2009. The victim was going to his village on his motorcycle. At about 9:30 PM, when he reached near Ismaila Flyover, a stationary truck was found parked in the middle of the road. The truck was loaded with fodder and there was no parking light or any other signal to show that it was parked in the middle of the road. In view of negligence on the part of the driver of the truck, the motorcycle of the deceased struck/dashed in the truck. The victim received fatal injuries. He was taken to PGIMS, Rohtak, where he was declared brought dead.

[3]. The deceased was driver at Airport with JAC Air Services. PW 3 Ramesh Kumar was examined, who had brought the computerized statement with regard to salary slip and salary register of the deceased, wherein he was getting Rs.7500/- per month. Salary slip also included the amount of overtime paid to the deceased. There was deduction of ESI etc. and the total salary was shown to be Rs.6364/- per month.

[4]. The Tribunal assessed the income of the deceased to be Rs.8000/- per month after taking into consideration the prospectus of increase of salary etc. and after applying deduction to the extent of 1/4th, the annual dependency was calculated to be Rs.72,000/-. After applying multiplier of 17, total

amount of compensation was calculated to the tune of Rs.12,24,000/-. An amount of Rs.6000/- was awarded towards funeral expenses and an amount of Rs.10,000/- was awarded towards loss of consortium. In this way, total compensation was worked out to be Rs.12,40,000/-.

[5]. I have considered the submissions raised by learned counsel for the parties.

[6]. In my considered opinion, addition of future prospects has not been properly made. Once carry home salary was held to be Rs.6364/- per month, addition of 40% i.e. Rs.2545.6 (rounded off to Rs.2546/-) has to be made towards future prospects and after adding the same, the monthly income would come out to be Rs.8910/-. Keeping in view the composition of the family, deduction to the tune of 1/4th was just and appropriate towards personal expenses and the same would bring the compensation to the tune of Rs.6683/- per month i.e. Rs.80,196/- per annum. Keeping in view the age of the deceased and in view of ratio laid down in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) Recent Civil Reports (Civil) 77**, multiplier of 17 would be just and appropriate and after applying the same, amount of compensation would come out to be Rs.13,63,332/-. In view of ratio laid down in **National Insurance Company Limited Vs.**

Pranay Sethi and others, 2017 SCC 1270, an amount of Rs.70,000/- has to be added towards conventional heads. In this way, total amount of compensation would come out to be Rs.14,33,332/- (13,63,332+70,000=14,33,332).

[7]. The Tribunal has already awarded an amount of Rs.12,40,000/-, therefore, the aforesaid amount has to be deducted and after deducting the same, the enhanced amount of compensation would come out to be Rs.1,93,332/- (14,33,332-12,40,000=1,93,332)

[8]. The enhanced amount of compensation i.e. Rs.1,93,332/- shall be paid to the claimants along with interest @ 7.5% per annum from the date of filing of claim petition till final realisation of the amount. The enhanced amount of compensation shall be proportionately paid to the claimants/appellants as per relief clause shown in the award. The liability to pay the enhanced amount of compensation shall remain the same as ordered by the Tribunal.

[9]. With the aforesaid modification, the present appeal stands disposed of.

19.08.2019

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No