

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

FAO-6488-2010 (O&M)

Date of decision: 27.02.2019

Kashwinder Kaur and others

...Appellants

Versus

Satwinder Kumar and others

...Respondents

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

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

Mr. Lalit Kumar, Advocate for
Mr. Ashwani Talwar, Advocate for respondent No. 3.

H.S. MADAAN, J. (Oral)

On account of death of Harmesh Lal son of Garib Dass, who had suffered injuries in a motor vehicular accident, that took place on 09.04.2007 at about 01.55 p.m., in the area of opposite Petrol Pump of Village Lachowal on Tanda-Hoshiarpur road statedly on account of rash and negligent driving of Santro car bearing registration DL-4CPC-6090 by its driver Satwinder Kumar-respondent No.1, to which he succumbed later on. Legal representatives of Harmesh Lal, namely Smt. Kashwinder Kaur-wife aged about 40 years, minor daughters Amandeep Kaur, aged 11 years, Rajinder Kaur, aged 09 years, Pallavi, aged 05 years and minor son Karan Kumar, aged 05 years as well as mother Smt. Surjit Kaur, aged about 65 years had brought a claim petition under Section 166 of the

Motor Vehicles Act, 1988 against respondents i.e. Satwinder Kumar -driver, Sanjay Arora-owner and The Oriental Insurance Company Ltd., Chandigarh Road, Hoshiarpur-insurer of said Santro Car (hereinafter referred to as offending car), claiming compensation of Rs.10 lacs. As per case of the claimants, the deceased aged about 45 years was having good health and was working as farm manager on agricultural land of Sh. Inderpal Singh, Advocate Hoshiarpur and his monthly income was Rs.6000/-, out of which, he was contributing Rs.4500/- per month to his family i.e. the claimants, who were dependent upon his earnings.

Upon notice, all the three respondents appeared and contested the said claim petition. Issues on merit were framed and vide award dated 11.05.2010, the claim petition was allowed and compensation of Rs.4,65,000/- along with interest @ 7.5% p.a., was awarded to the claimants, payable by all the three respondents jointly and severally. The claim petition was accepted with costs.

The claimants were dissatisfied with the compensation granted to them and they have filed the appeal before this Court, notice of which was given to insurance company, who has put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The first argument advanced by learned counsel for the appellants was that no amount has been awarded towards future prospects and the claimants are entitled to addition of 25% on that account, in view

of the ratio of authority **National Insurance Company Limited** Vs. **Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009. This contention of learned counsel for the appellants has got force and is not controverted by learned counsel for insurance company even. The tribunal had taken monthly income of deceased to be Rs.3000/-. In that way, making an addition of 25% towards future prospects, the figure is arrived at Rs.3750/- per month. The tribunal has deducted 1/3rd of the monthly income towards personal expenses of the deceased. According to learned counsel for the appellants, the tribunal fell in error in doing so, keeping in view the fact that number of dependents upon earnings of deceased were six and in terms of the authority by apex Court **Smt. Sarla Verma and others** Vs. **Delhi Transport Corporation and Anr.**, 2009(3) RCR (Civil) 77, in such an eventuality, deduction of 1/4th of the amount should have been made. Again this plea of learned counsel for the appellants is correct and has not been controverted by learned counsel for insurance company. In that way, making deduction of 1/4th, the dependency of claimants comes out to Rs.2813 per month (Rs.3750-937) and annual dependency comes out to Rs.33756/- (Rs.2813X12).

The tribunal has rightly used multiplier of 14, keeping in view the age of the deceased. Therefore, the compensation is worked out to Rs.4,72,584/-. Under the conventional heads, the tribunal has awarded a sum of Rs.50,000/-, whereas, in view of ratio of the authority **Pranay Sethi and others** (supra), a sum of Rs.70,000/- should be awarded. Adding that amount, the total compensation comes out to Rs.5,42,584/-.

The tribunal has already awarded a sum of Rs.79,684/-on account of medical expenses. Adding that, the total compensation comes out to Rs.6,22,268/-. In that way, the claimants are entitled to get an additional compensation of Rs.1,57,268/- (Rs.6,22,268-Rs.4,65,000/- i.e the compensation already granted by the tribunal). The claimants shall be entitled to get this amount with interest @ 7.5% p.a., from the date of filing of appeal till actual realization. The other terms & conditions shall be the same as given in the original award. The appeal is allowed with costs.

27.02.2019
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(H.S. MADAAN)
JUDGE

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