

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

**FAO No. 4468 of 2011 (O&M)
Date of Decision: March 13, 2019.**

Dinesh and others

.....APPELLANTS

VERSUS

Joginder Singh and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Dheeraj Narula, Advocate
for the appellants.

Mr. S.K. Jain, Advocate
for respondents No.1 and 2.

Mr. Vikas Mohan Gupta, Advocate
for respondent No.3.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the tribunal') vide award dated 17.11.2010 allowed compensation of ₹2,80,000/- for death of Pardeep Kumar (later referred to as 'the deceased'), son of appellants No.1 and 2, and brother of appellants No.3 to 5, in a motor vehicle accident with tractor bearing registration No.HR-24A-9902.

As the only issue pressed in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded by the tribunal was computed as

follows:-

(i)	Name of the deceased	Pardeep Kumar
(ii)	Date of accident	14.04.2009
(iii)	Age of the deceased	17 years
(iv)	Income of the deceased	₹15,000/- per annum
(vi)	Multiplier applied 18	₹15,000 X 18 = ₹2,70,000/-
(vii)	Expenses of funeral ceremony	₹5,000/-
(viii)	Transportation of dead body	₹5,000/-
	Total	₹2,80,000/-

Learned counsel for the appellant has argued that the deceased was a student of matriculation and was 17 years of age. The Tribunal has assessed his income as ₹15,000/- per annum, which is on lower side. The Tribunal, at the most, could assess his income as unskilled worker, which was around ₹3840/- per month in the year 2009. As per the law settled by Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***, the claimants are entitled to 40% addition in income of the deceased towards loss of future prospects and compensation of ₹30,000/- under conventional heads.

Learned counsel for the insurance company has argued that deceased was not an earning hand, as such, the Tribunal has rightly assessed his income as ₹15,000/-per annum. However, he has not disputed the grant of compensation as per law settled by the Hon'ble Apex Court in the case of ***Pranay Sethi's (supra)***.

Admittedly, the deceased was a student and was not an earning hand. The petition was filed under Section 166 of Motor Vehicles Act. The Tribunal, while assessing the income of the deceased, was required to see the educational qualification of the deceased and his family background

instead of assessing his income as ₹15,000/- per annum. The income of the deceased can be equated with an unskilled worker. Keeping in view the above fact, I take income of the deceased as ₹3850/- per month and the claimants are also entitled to 40% addition in the income of the deceased towards loss of future prospects. The accident took place in the year 2009 and taking note of the money value prevalent at that point of time, the claimants are also allowed compensation of ₹20,000/- under conventional heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹3850 per month
(ii)	40% of above (i) to be added as future prospects	(₹3850+₹1540)= ₹5390/- per month
(iii)	Deduction of 1/2 nd towards personal expenses of the deceased	(₹5390 -₹2695)= ₹2695 per month
(iv)	Compensation after multiplier of 18 is applied	(₹2695 X 12 X 18)= ₹5,82,120/-
(v)	Conventional heads	₹20000
	Total	₹6,02,120/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹2,80,000/- to ₹6,02,120/- for death of Pardeep Kumar. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation and shall be shared by appellants No. 1 and 2 only.

appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be apportioned equally amongst other surviving claimants.

March 13, 2019.
Jyoti-II

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>