

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

F.A.O. No. 10035 of 2014

DATE OF DECISION :- April 22, 2019

Jaipati and others

...Appellants

Versus

Naresh Kumar and others

...Respondents

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

Present:- Mr. Ajay Aggarwal, Advocate
for Mr. S.K. Goyat, Advocate for the appellants.

Mr. Rajesh Lamba, Advocate
for Ms. Monisha Beniwal, Advocate
for respondent No. 3-Insurance Company.

On account of death of Paramjeet, aged about 19 years, having avocation of a labourer, in a motor vehicular accident, which took place on 30.11.2013 at about 2.00 P.M., in the area of near Shiv Mandir, Satrod Khurd, G.T. Road, Hisar statedly on account of rash and negligent driving of a Truck bearing No. HR-39B-4435 by respondent no. 1 Naresh Kumar, legal representatives of deceased i.e. his mother Mrs. Jaipati, aged 40 years, father Jiya Lal, aged about 43 years, younger brother Mandeep, aged about 13 years and younger sister Ritu, aged about 11 years had brought a petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents i.e. Naresh Kumar (driver), Satnam Kaur (owner) and IFCO Tokyo General Insurance Company -insurer of Truck in question, claiming compensation.

Notice of the claim petition was given to the respondents, who put in appearance and offered a contest. Vide award dated 17.9.2014, the Motor Accident Claims Tribunal, Hisar accepted the petition and granted compensation of Rs.7,19,000/- with interest at the rate of 7.5% per annum to claimant No. 1 Jaipati only. The liability to pay this amount was held to be joint and several of all the three respondents. The claimants were not satisfied with the amount of compensation granted and they have approached this Court by way of filing the present appeal. Learned counsel for the appellants has stated that the award with regard to payment of compensation to Mrs. Jaipati only be kept as such and he does not press for grant of compensation to the other claimants.

Notice of the appeal was given to Insurance Company-respondent No. 3 who has put in appearance.

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

Both the counsel agree that this case be decided in terms of judgment of the Apex Court '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***'.

In the impugned award the Tribunal has not granted any compensation towards future prospects while taking the monthly income of the deceased to be Rs.5500/- per month and annual income to be Rs.66,000/-. In view of the ratio of authority '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' 40% of the amount is to be added towards future prospects. Doing that the annual income of the deceased comes out to Rs.92,400/- (66,000 + 26400). Since

the deceased was a bachelor, 50% of amount has to be deducted towards his personal expenses. Doing that the dependency of claimants comes out to Rs.46,200/- (92400-46200). Keeping in view the age of the deceased, multiplier of 18 is to be applied. In that way the compensation payable comes out to Rs.8,31,600/- (46200 x 18). Under conventional Heads the claimants are entitled to get Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. The total amount of compensation comes out to Rs.8,61,600/-(8,31,600+15,000+15,000). The Tribunal has awarded compensation of Rs.7,19,000/-. In that way the appellant-claimant Mrs. Jaipati is entitled to additional compensation of Rs.1,42,600/-. Therefore, the appeal is accepted and additional compensation of Rs.1,42,600/- with interest at the rate of 7.5% per annum from the date of filing of the appeal till actual realization along with cost of the appeal is awarded to claimant Mrs. Jaipati jointly and severally by all the three respondents.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

April 22, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No