

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

**FAO No. 10153 of 2014 (O&M)
Date of Decision: 17.09.2019**

Kashmiri and others

..... Appellants

Versus

Kailash Chand and others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Mukesh Yadav, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for the respondents.

JAISHREE THAKUR, J. (ORAL)

1. This is an appeal that has been filed seeking enhancement of compensation that has been allowed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') to the claimants herein on account of death of Kuldeep Singh, who was 25 years old.

2. In brief, the facts are that on 31.05.2013 at about 11.15 p.m. Kuldeep Singh (deceased) along with his companions, Mukesh and Satpal was standing near NH-8 in the area of village Joniawas Dharuhera before T-point, when a canter bearing registration No. KA-42-6845 coming from the side of Dharuhera lane, being driven by its driver respondent No.1

Kailash Chand in a rash and negligent manner, hit Kuldeep Singh, Mukesh and Satpal. Due to the collision all of them sustained serious injuries and Kuldeep Singh succumbed to his injuries. The claimants being widow along with minor son and mother of the deceased, filed a claim petition before the Tribunal.

3. Respondent No.4-Insurance Company in its written statement took various preliminary objections, one of them was that the driver of offending vehicle was not holding a valid and effective driving licence at the time of accident. On merits, factum of accident had been denied. Age, income and profession of the deceased have been denied and it had been pleaded that the answering respondent was not liable to pay any compensation.

4. Respondent No.1 & 2, the driver and owner of the offending vehicle did not appear to contest the claim petition and they were proceeded against ex parte on 28.02.2013.

5. Respondent No.3, was given up being unnecessary party by the petitioners on 19.12.2013.

6. No replication to the written statement of respondent No.4, was filed. From the pleadings of the parties, the Tribunal, framed the following issues :-

1. *Whether Kuldeep Singh son of Daya Nand had died in a road accident which took place on 31.05.2012 in the area of village Joniawas NH8 (police Station Dharuhera) due to rash and negligent driving on the part of respondent No.1, the driver of canter No. KA-42-6845?OPP*
2. *Whether the claimants are entitled to compensation, if so*

to what amount and from whom?OPP

3. *Whether respondent no.1 did not hold a valid and effective driving licence, if so to what effect?OPR-4*

4. *Relief.”*

7. The parties led their respective evidence in support of their pleadings and on the basis of the findings, the Tribunal, awarded a sum of ₹ 6,68,000/- with interest @ 7.5% per annum from the date of filing of the claim petition till realization on account of death of Kuldeep Singh. Feeling aggrieved, the instant appeal for enhancement of compensation has been filed.

8. Learned counsel for appellants submits that Kuldeep Singh died at the age of 25 years and, thus, keeping in view the age of the deceased higher multiplier ought to have been applied while assessing the compensation. He further submits that the compensation awarded to the appellants towards loss of consortium and funeral expenses is inadequate and no compensation has been awarded on account of love and affection, transportation and loss of estate. He, thus, prayed for modification of the award by submitting that increase on account of future prospects should be allowed in terms of the judgment of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.***

9. On the other hand, learned counsel respondent No.4— Insurance Company argues that just and adequate compensation has been awarded by the Tribunal.

10. I have heard learned counsel for the parties and have also gone through the case law as cited. Since there is no income proof on the record,

the Tribunal has correctly assessed it @ ₹ 4,500/- per month based on minimum wages as applicable at that time. However, the compensation that has been awarded is wholly inadequate and is not in consonance with ***Pranay Sethi and others*** case (supra).

11. Hence, in terms of the judgment rendered by the Supreme Court in ***Pranay Sethi and others*** case (supra), compensation payable to the claimants-appellants is re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Kuldeep Singh
(ii)	Date of accident	31.05.2013
(iii)	Age of the deceased	25 years 10 days
(iv)	Monthly income of the deceased	₹ 4,500/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 4,500+₹ 1,800)= ₹ 6,300 per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 6,300 - ₹ 2,100) = ₹ 4,200/- per month
(vii)	Compensation calculated after applying the multiplier of 18	(₹4,200 X 12 X 18) = ₹ 9,07,200/-
(viii)	Conventional heads i.e. loss of consortium, estate, funeral expenses etc.	₹ 70,000/-
<i>Total</i>		₹ 9,77,200/-

12. In view of the above, the appeal is allowed and consequently the compensation awarded is enhanced from ₹ 6,68,000/- to ₹ 9,77,200/-.

13. The Insurance Company is directed to release the enhanced compensation in favour of the claimant-appellants with interest @ 7.5% per annum from the date of filing of the petition till realization in terms of the judgment rendered by the Supreme Court in ***Dara Singh @ Dhara Banjara***

vs. Shyam Singh Varma & Ors., Civil Appeal No. 4528 of 2019 [SLP(C) No. 5720 of 2019] decided on 01.05.2019, while deducting for the number of days of delay in filing the appeal.

14. The award is modified and the appeal is allowed to the above extent.

17.09.2019

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.