

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 10353 of 2014(O&M)

Date of Decision: March 27 , 2019.

Saroj Devi and another

..... APPELLANT (s)

Versus

Rakesh Kumar and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. H.N.Sahu, Advocate
for the appellants.

Mr. Narender Bhukal, Advocate for
Mr. Rajat Mor, Advocate
for respondents No.1 and 2.

Ms. Manjeet Kaur, Advocate for
Ms. Vandana Malhotra, Advocate
for respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

CM No.28571-CII of 2014

There is a delay of 131 days in filing of the appeal.

For the reasons mentioned in the application, duly supported by affidavit of the applicant, as well as arguments addressed, delay of 131 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.10353 of 2014

Notice of motion.

Mr. Narender Bhukal, Advocate for Mr. Rajat Mor, Advocate accepts notice on behalf of respondents No.1 and 2 and Ms. Manjeet Kaur, Advocate for Ms. Vandana Malhotra, Advocate accepts notice on behalf of respondent No.3.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Narnaul (for short, “the Tribunal”) vide award dated 21.01.2014.

Petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the appellants claiming compensation of ₹50,00,000/- on account of death of their son –Mukesh in a motor vehicle accident which took place on 25.08.2012. Learned Tribunal on consideration of the facts and evidence on record, concluded that the accident, in question, occurred due to rash and negligent driving of offending truck bearing registration No.HR-63B-5647 by its driver –Rakesh Kumar. While assessing income of the deceased-Mukesh, aged 19 years, to be ₹10,500/- per month, a total sum of ₹11,28,000/- was awarded to the claimants by the learned Tribunal. Deduction to the extent of 50% was effected towards personal expenses. Multiplier of 16 was applied. ₹20,000/- was awarded on account of transportation and funeral expenses. ₹1,00,000/- was awarded towards love and affection, loss of income etc.

Aggrieved of the quantum of compensation, present appeal has been filed by the claimants for enhancement of the same.

Heard learned counsel for the parties and have gone through the file.

It is argued by learned counsel for the appellants that the learned Tribunal has erred in assessing income of the deceased as well as applying a multiplier of 16. However, learned counsel is unable to point out any evidence on record to indicate that the deceased – Mukesh was earning an income higher than ₹7,000/- per month. It is relevant to note that the claimants themselves relied on Ex.P5 i.e., a certificate dated 16.08.2013 issued by the Great Hindustan Hybrid Seeds (P) Ltd., which reads as under:-

“To Whom It may Concern

Certified that Sh. Mukesh Kumar S/o Mohan lal, village Chelawagh, P.O.Kanina, District Mohindergarh was employee in our company. He obtained salary from our company Seven Thousand per month from the period 01.04.2012 to 31.12.2012.”

Thus, there is no ground whatsoever available with the appellants to urge that the deceased was earning more than ₹7,000/- per month.

It is to be noticed at this stage that learned Tribunal in the impugned award has observed that the deceased was drawing a salary of ₹7,000/- per month. It is further observed that an addition of 50% is to be given, as the deceased had a permanent job. Learned Tribunal has thus assessed income of deceased-Mukesh as ₹10,500/- per month. It is relevant to note that in case salary of the deceased is accepted to be ₹7,000/- per month as per salary certificate (Ex.P5) and increment at the rate of 40% is afforded in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and compensation under the conventional heads is also afforded, appellants are entitled to about the same amount of compensation. Therefore, no ground is made out for any

enhancement as prayed for.

No other argument has been raised.

Thus, I do not find any ground to interfere in the impugned award dated 21.01.2014 passed by the Motor Accident Claims Tribunal, Narnaul.

Consequently, this appeal is dismissed with no order as to cost.

March 27 , 2019.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No