

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

FAO No. 1577 of 2014(O&M)

Date of Decision: September 10 , 2019.

HDFC Ergo General Insurance Company Ltd. APPELLANT (s)

Versus

Babita Kumari Lamba and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sandeep Suri, Advocate
for the appellant.

Respondents No.1 to 8 *ex parte*.

Respondent No.5 is given up.

Mr. Gaurav Gupta, Advocate for
Mr. G.D.Gupta, Advocate
for respondent No.9.

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.

The insurance company is in appeal against the impugned award dated 18.09.2013 passed by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as, the 'Tribunal') challenging the quantum of compensation awarded to the claimants/respondents No.1 to 4.

The claimants/respondents No.1 to 4 filed a petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') on account of the death of Jaswinder Singh Lamba. The claimants are the widow, minor children and mother of the deceased. It is pleaded that the deceased was 47 years of age at the time of the accident. He is claimed to be a national level Softball player and an efficient coach, who at the time of the accident, was providing professional services to the players from school level to University level as well as private institutions. It is further claimed that he was providing professional services to the teams at the international level as well. It is pleaded that the deceased was additionally running his business in the name and style of Paramount Publishers and was earning a sum of ₹45,000/- to ₹50,000 per month. Compensation was accordingly claimed.

Learned Tribunal on considering the evidence on record concluded that Jaswinder Singh Lamba died due to the injuries sustained by him in a motor vehicle accident which took place on 26.02.2011 due to the rash and negligent driving of the offending vehicle by its driver. This finding of the learned Tribunal has attained finality. As noticed above, there is no challenge to the same in the present appeal as well.

Learned Tribunal while negating the argument raised on behalf of the Insurance company that income of the deceased should be taken to be that of a labourer, assessed his income as ₹10,000/- per month and awarded a total compensation of ₹17,46,000/- to the claimants. Increment at the rate of 30% has been afforded on account of future prospects. Deduction to the extent of 1/4th has been effected. Multiplier of 13 was applied in terms of the judgment of the

Hon'ble Supreme Court in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77. ₹1,00,000/- was awarded on account of loss of consortium and another sum of ₹1,00,000/- was awarded to the claimants towards loss of love and affection, besides, ₹25,000/- towards funeral expenses.

Learned counsel for the appellant-Insurance company vehemently argues that there is no evidence, whatsoever, to prove income of the deceased to be even ₹10,000/- per month, therefore, learned Tribunal, it is submitted, has grossly erred in assessing income of the deceased to be ₹10,000/- per month, whereas the same should have been assessed with reference to the minimum wage available in the Union Territory, Chandigarh at the time of the accident. It is contended that increment at the rate of 25%, instead of 30% should be awarded 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. It is further contended that compensation under the conventional heads is excessive and should be reduced. It is thus prayed that this appeal be allowed and compensation awarded to claimants/respondents No.1 to 4 be reduced.

It is to be noticed that respondents No.1 to 4/claimants were proceeded exparte vide order dated 20.10.2015. Respondent No.5 was given up as reflected in order dated 29.11.2016. It is brought to my notice that the claimants have not filed an appeal against the impugned award seeking enhancement of the compensation awarded to them.

I have heard learned counsel for the appellant and have gone through the photocopy of the record, furnished by him in Court today.

It is a matter of record that deceased-Jaswinder Singh Lamba was indeed providing his services as a Coach to Softball players. This is the finding duly returned by the learned Tribunal on the basis of the evidence on record. As far as the academic qualifications of the deceased are concerned, the same are also a matter of record and the requisite certificates are duly available on record. I have gone through the various certificates, Ex.P14 to P31. It is apparent that the deceased, a Softball/Baseball player of national level, was providing coaching services at the time of the accident. He was also invited to various events as an Umpire/Scorer/Associate. Certificates issued by the Chandigarh Amateur Softball Association, Baseball Federation of India, Softball Association of India and others, are available on record. As per Ex.P18 i.e., the certificate issued by the Baseball Federation of India, it is apparent that the deceased was appointed as a Coach of Indian Universities Baseball Team for the World University Baseball Championship held in Czech Republic in July 2008 and that he was conducting the coaching camp in May, 2008. Certificates issued by the Softball Association of India, Department of Sports, Panjab University, Chandigarh etc. are also available on record.

Even if the evidence led by the claimants in respect to the publication house is ignored, in my considered opinion, the present is not a case which calls for any reduction in total compensation awarded by the learned Tribunal. The evidence on record, if considered in its totality, may have entailed assessment of a higher income, which in any case would have taken care of any alleged excess amount which may have been awarded by the learned Tribunal on account of increment towards future prospects or under the conventional heads.

There is indeed no ground, whatsoever, to reduce the compensation awarded by the learned Tribunal.

No other argument has been raised.

In this view of the matter, I do not find any ground, whatsoever, to interfere in the impugned award dated 18.09.2013 passed by the learned Motor Accident Claims Tribunal, Chandigarh at the instance of the Insurance company.

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

September 10 , 2019.
'om'

(LISA GILL)
JUDGE

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