

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

FAO No. 1204 of 2015 (O&M)

Date of decision : April 02, 2019

Avinash Rani and others

.....Appellants

Versus

Jaswinder Singh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjeev Goyal, Advocate
for the appellants.

Mr. P.K.S Phoolka, Advocate
for respondent No. 1.

Ms. Monika Singh, Advocate for
Mr. A.K. Ghalawat, Advocate
for respondent No. 2.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal') on account of death of Suraj Parkash vide award dated 19.08.2014.

Brief facts necessary for adjudication of the case are that the claimants i.e. parents and minor sister of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Suraj Parkash on 27.07.2012 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, i.e. bus bearing registration No. RJ-31-PA-1220 by respondent No.1. It is pleaded that Suraj Parkash (deceased) alongwith Malkiat Singh, Mohit, Buta Singh, Bikramjit Singh and Kuldeep Singh were returning from Kochi in a Travera car bearing registration No. PB-13S-9637. When they reached on Megha

highway near village Bhojasar, offending vehicle bus, bearing registration No. RJ-31-PA-1220 driven by respondent No. 1 in a rash and negligent manner came from opposite side and rammed into the Travera car. As a result thereof, all the six occupants of the car suffered multiple grievous injuries and succumbed to their injuries. The deceased, aged 40 years was running a grocery shop, earning a sum of ₹20,000/- therefrom.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 27.07.2012 due to rash and negligent driving of the offending bus bearing registration No. RJ-31-PA-1220 by respondent No. 1. Income of the deceased was assessed as ₹6,250/- per month while considering the deceased to be a labourer. It is observed that a labourer would earn ₹250/- per day and ₹6,250/- per month was assessed presuming the deceased to be working for 25 days in a month. Learned Tribunal awarded a sum of ₹13,90,625/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50% increment in income has been afforded. Deduction of 1/4th was effected keeping in view the number of dependants. Multiplier of 15 was applied as the deceased was 40 years old at that time. Additionally, a sum of ₹1,00,000/- was awarded to appellants No. 2 to 4 on account of loss of love, care and guidance and a sum of ₹25,000/- was awarded on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as there is clear cut evidence on record to indicate that the deceased was running a grocery shop and earning a sum

of ₹20,000/- therefrom. Compensation under the conventional heads, it is stated, is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondents while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 19.08.2014 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Suraj Parkash lost his life in a motor vehicle accident, which took place on 27.07.2012 caused due to the rash and negligent driving of bus bearing registration No. RJ-31-PA-1220 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is not disputed that the deceased was 40 years old at the time of the accident. He is claimed to be running a grocery shop at the time of his death. In order to prove the same, it is only the bald statement of the claimant – Neha (daughter of the deceased), who stepped in the witness box as AW1. Learned counsel for the appellants is unable to deny that there is indeed no evidence on record to prove running of the grocery shop by the deceased.

In this view of the matter, income of the deceased has been rightly assessed as ₹6,250/- per month. Learned Tribunal has afforded increment of 50% on account of future prospects whereas the deceased was 40 years old at the time of accident. ₹1,00,000/- has been afforded to appellants No. 2 to 4 for loss of estate and affection and ₹25,000/- on account of funeral expenses.

Learned counsel for the appellants is unable to point out any ground whatsoever for enhancement of the compensation so afforded especially in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009.**

No other argument has been raised.

Appeal is, accordingly, dismissed with no order as to costs.

April 02, 2019
rts

(Lisa Gill)
Judge

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