

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

FAO-1287-2015 (O&M)

Date of Decision: July 10, 2019

Smt. Sushma Rani and another

Appellants

Versus

Harjeet Singh and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Bhupender Singh, Advocate
for the appellants.

Mr. Madan Gupta, Advocate
for respondents No.1 to 3.

Ms. Rajnish Malhotra, Advocate
for respondent No. 4.

JAISHREE THAKUR, J. (Oral)

The instant appeal seeks to challenge the award dated 26.09.2014 passed by the Motor Accident Claims Tribunal, Yamunanagar, wherein the appellants herein have been allowed compensation of ₹6,35,800/- on account of death of Mohit Kumar son of the appellants herein.

In brief, the facts are that on 20.11.2012 at about 5.15 p.m., deceased Mohit Kumar along with Anil Kumar was going from Radaur to Damla while sitting on the pillion seat of motorcycle bearing registration No. HR-02M-5835, which was being driven by Anil Kumar. They were also followed by one Virender Kumar s/o Rattan Lal, a co-villager. When they

reached near JMIT College, Radaur, a truck (the offending vehicle) bearing registration No.HR-37-2441 came from the side of Yamuna Nagar, at a high speed. The truck was driven in a rash and negligent manner and on seeing the same, Anil Kumar had retarded the speed of his motorcycle and came to the extreme left side of the road but the truck after coming to the wrong side of the road, hit the motorcycle. As a result of this accident, Anil Kumar and Mohit Kumar sustained multiple injuries. The truck was driven by respondent No.1 herein, who fled away leaving his truck after the accident. Both the injured were taken to Community Health Centre, Radaur whereafter they were referred to Civil Hospital, Yamuna Nagar, and while they were on way to the said hospital, Mohit Kumar succumbed to the injuries. It was alleged that the accident took place solely due to the rash and negligent driving of respondent No.1 as stated by eye witness-Virender Kumar. With these averments, claim petition was filed by the mother and father of the deceased claiming that the deceased was 23 years old working as auto mechanic and was earning ₹15,000/- per month and that they were dependent upon the deceased.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, as the said accident did not occur with the said truck, and whereas a false FIR was lodged involving the truck in question. Issues were framed and thereafter evidence was led by the parties. In order to substantiate the claim, appellant No.1 stepped into the witness box as PW1 examined Dr. Anoop Goel PW 3 and also tendered documents. On the other hand, no oral evidence was led by the respondents but they tendered document Ex. R1 (only copy of

insurance) in evidence.

After scrutiny of the evidence brought on record, the Tribunal held that the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹6,25,800/- which has been sought to be enhanced in the instant appeal.

I have heard learned counsel for the parties and gone through the pleadings of the case.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 23 years of age and was earning ₹4967/- per month. The Tribunal deducted 50% towards personal expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly taken the income of the deceased as ₹4967/- per month being minimum wages prevalent. However, the Tribunal while taking the age of the deceased as 23 years has wrongly applied the multiplier of 14 whereas it should have been the multiplier of 18. Increase in income on account of future prospects at the rate of 40% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Mohit Kumar
2	Date of accident	20/11/2012

Sr. No.	Heads of claim	Calculation
3	Age of the deceased	23 years
4	Monthly income of the deceased	4967/- per month
5	40% of (iv) is to be added towards future prospects	(4967+1987)=6954/-
6	1/2 of (v) above to be deducted towards personal expenses	(6954-6954/2)=3477/-
7	Compensation calculated after applying the multiplier of 18	3477x18x12=7,51,032/-
8	Funeral expenses+Loss of estate @ 15000/- each	30,000/-
9	Total : (7+8)	7,81,032/-

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹7,81,032/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of filing of the appeal in this Court till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

July 10, 2019
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No