

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

FAO No. 1423 of 2015 (O&M)
Date of Decision: 15.2.2019

Ravinder Kaur and others

...Appellants

Versus

Hafiz and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Deepak Goyal, Advocate
for the appellants.

Mr. Swarn Gridhar, Advocate, for
Mr. Ashwani Talwar, Advocate,
for respondents No.3.

JAISHREE THAKUR, J.

The instant appeal has been preferred by the claimants/appellants for enhancement of compensation granted to them by the Motor Accidents Claims Tribunal on account of death of Darshan Singh.

In brief, the facts are that in an accident that took place on 3.3.2010, Darshan Singh, died. Therefore, the claimants filed a claim petition stating that the deceased, who was 30 years, was an agriculturist and driver of harvester combine and was earning ₹15,000/- per month. The Tribunal held that it was on account of rash and negligent driving of Hafiz —driver of the offending vehicle that caused death of Darshan Singh and taking the salary of the deceased at ₹6,247/- per month and other

conventional heads awarded compensation of ₹11,24,488/-.

Learned counsel for appellants would submit that the Tribunal has wrongly taken the income of the deceased to be ₹6247/-, while the deceased was earning ₹15,000/- per month. It is also submitted that the deceased was 30 years of age and multiplier of 17 should have been applied. It is also submitted that the Tribunal has not granted adequate compensation on account of loss of consortium and loss of estate.

On the other hand, learned counsel for the respondent—Insurance company would contend that since the appellants were not able to prove the income being actually earned by the deceased and the age of the deceased, therefore, the Tribunal took the income of the deceased at ₹6,247/- per month and further while considering the age of the deceased 35 years, rightly applied the multiplier of 16 and as such, no interference is called for.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 35 years of age and was earning ₹6,247/- per month. 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 ₹6,247/- per month, in terms of the notification dated 15.11.2013 issued by the Government of Punjab, Department of Labour (Labour Branch), wherein minimum wages of unskilled persons have been fixed as ₹6,247/-. Similarly, the appellants were not able to prove the age of the deceased as 30 years. Thus, the Tribunal keeping in view the nature of the evidence brought on record

arrived to the conclusion that the deceased was 35 years of age. However, 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 are re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Darshan Singh
(ii)	Date of accident	3.3.2010
(iii)	Age of the deceased	35 years
(iv)	Monthly income of the deceased	₹ 6247/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 6247+₹2498)= ₹ 8745/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 8745-₹2915) = ₹ 5830/- per month
(vii)	Compensation calculated after applying the multiplier of 16	(₹5830X12X16) = ₹ 11,19,360/-
(viii)	Funeral expenses	₹ 25000 (as already awarded by the Tribunals
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
(xi)	Medical expenses	₹25,000
Total		₹12,24,360

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 ₹ 12,24,360/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the

petition till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

15.2.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No