

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

CM No. 7329 CII of 2015 in/and
FAO No. 2365 of 2015 (O&M)
Date of decision: September 9, 2019

Smt. Manju Devi and others

...Appellants

Versus

Nahar Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ravi Malik, Advocate, for
Mr. S.K. Panwar, Advocate,
for the appellants.

Mr. R.S. Sharma, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

CM No. 7329 CII of 2015

This is an application that has been filed for condonation of 11 days' delay in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the appeal is condoned.

CM stands disposed of.

Main case

This appeal seeks to challenge the award dated 30.10.2014 passed by the Motor Accident Claims Tribunal, Palwal, wherein the appellants herein have been allowed compensation of ₹5,30,000/- on account of death of Prem Shankar Mishra.

In brief, the facts are that on 30.12.2013 when deceased Prem Shankar Mishra, along with one Lovkush, was returning on foot to his DRS Company, situated at National Highway No.2 in village Mitrol, from a Dhaba, after having their meal, they were hit by a bus bearing registration No. RJ-05PA2025, being driven by respondent No.1 in rash and negligent manner, as a result of which, Prem Shankar Mishra fell down on the road, received multiple grievous injuries and ultimately succumbed to the injuries. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR No. 719 came to be lodged with the Police Station Sadar, Palwal. With these averments, claim petition was filed by the widow, mother and the children of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was employed as a driver and was earning ₹16,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action had accrued etc. Issues were framed and thereafter evidence was led by the parties in order to substantiate their respective claims.

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 produced before it allowed compensation of ₹5,30,000/-, which has been now challenged in the instant appeal.

Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the

same deserves to be enhanced. It is submitted that the monthly income of the deceased ought to have been assessed at ₹16,000/- as the appellants were able to establish on the record that the deceased was employed with M/s VFC Transport Contractor & Fleet Owner and was drawing monthly salary of ₹16,000/- per month. It is further submitted that inadequate amount of compensation has been granted under the conventional heads. It is also submitted that multiplier of 13 ought to have been applied instead of 11 as the deceased was 50 years of old.

On the other hand learned counsel appearing on behalf of respondent No.2 submits that adequate amount of compensation has been awarded by the Tribunal and as such no interference is called for in the appeal by this Court.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 50 years of age and was earning ₹5000/- per month. The Tribunal deducted 1/4th towards personal and living expenses of the deceased. No doubt, the appellants produced salary certificate Ex. P.9 to the effect that the deceased had been working with M/s VFC Transport Contractor & Fleet Owner, but they failed to examine the signatory of this certificate and, therefore, the Tribunal rightly did not take the same into consideration for assessing the income of the deceased. However, it stands proved on the record that the deceased was competent to drive a truck as per driving licence Ex. P-2. Hence the deceased could be treated as a skilled worker. The minimum rates of wages in the state of Haryana at the relevant time for a skilled worker was ₹5991/- therefore, the the monthly income of the deceased is assessed at ₹5991/-.

Furthermore, since the appellants were able to prove the age of the deceased to be 50 years, therefore, the multiplier of 13 ought to have been applied in terms of the judgment rendered in **Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 SCC 121**. Apart from that, increase in income on account of future prospects at the rate of 25% 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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Prem Shankar Mishra
(ii)	Date of accident	30.12.2013
(iii)	Age of the deceased	50 years
(iv)	Monthly income of the deceased	₹ 5991/-
(v)	25% of (iv) is to be added towards future prospects	(₹ 5991+₹1498)= ₹ 7489/- per month
(vi)	1/4 th of (v) above deducted towards personal expenses	(₹ 7489-₹1872) = ₹ 5617/- per month
(vii)	Compensation calculated after applying the multiplier of 13	(₹5617X12X13) = ₹ 8,76,252/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹9,46,252

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 appellants shall be ₹ 9,46,252/- and the amount in excess over

what was awarded will also attract interest @7.5% per annum 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.

September 9, 2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No