

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

FAO-2550-2015 (O&M)

Date of decision: 05.03.2019

Rajbala and others

...Appellants

Versus

Sunil and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Mukesh Yadav, Advocate
for the appellant.

Ms. Anamika Mehra, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

On account of death of Ramotar, aged about 47 years, working as Laboratory Assistant in Govt. Girls Senior Secondary School, Mahendargarh, in a motor vehicular accident, which took place on 19.07.2013 at about 9.30 am, in the area of Nang Tihari Bus Stand, statedly due to rash and negligent driving of Max vehicle No.HR-34A/7129 by respondent No.1 Sunil, legal representatives of the deceased, namely, his wife Smt. Rajbala, daughter Ms. Sushma, son Vikram and mother Dodi had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, impleading respondents i.e. Sunil-driver, Jagdish-owner and the New India Assurance Company Ltd., Rewari-insurer of Max vehicle No.HR-34A/7129 (hereinafter

referred to as the offending vehicle).

After contest, the claim petition was allowed by Motor Accidents Claims Tribunal, Narnaul, vide award dated 17.12.2014 and compensation of Rs.15,22,800/- was awarded to the claimants along with interest @ 9% p.a. from the date of filing of petition till actual realization, payable by all the respondents jointly and severally.

Appellants/claimants felt aggrieved by the compensation, so awarded, which according to them, is on the lower side, have approached this Court by filing the present appeal, notice of which was given to the respondents. Respondent Nos. 1 & 2 did not appear despite service and only insurance company put in appearance to offer a contest.

I have heard learned counsel for the parties besides going through the record.

On the basis of evidence adduced before it, the tribunal has taken the age of deceased to be 47 years and his monthly income Rs.18,000/-. No fault can be found with such findings by the tribunal. The tribunal has not paid any addition towards prospects, in view of ratio of the authority **National Insurance Company Limited** Vs. **Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009, where the deceased had a permanent job and was in the age group of 40 to 50 years, an addition of 30% of actual salary is to be made towards future prospects. Doing that, the figure worked out to Rs.5400/-. The monthly income of the deceased comes out to Rs.23400/- (Rs.18000+Rs.5400).

The tribunal has deducted $\frac{1}{3}^{\text{rd}}$ of the amount towards personal expenses of the deceased, whereas, in terms of ratio of the authority **Smt. Sarla Verma and others** Vs. **Delhi Transport Corporation and Anr.**, 2009(3) RCR (Civil) 77 by the Apex Court, where number of dependent family members is 4 to 6, deduction should be $\frac{1}{4}^{\text{th}}$. In this case, number of dependents was 4 and deduction of $\frac{1}{4}^{\text{th}}$ of the amount should have been made towards personal expenses of the deceased. That error is rectified and in that way, monthly dependency of the claimants comes out to Rs.17550 per month (Rs.23400- Rs.5850) and annual dependency comes out to Rs.2,10,600/- (Rs.17550X12).

The tribunal has used multiplier of 11 when as per ratio of Sarla Verma (supra) for age group of 46 to 50 years, multiplier of 13 should be used. Doing that, the total compensation is worked out to Rs.27,37,800/-

The tribunal has awarded a sum of Rs.20,000/- on account of transportation and last rites, Rs.30,000/- towards love and affection and Rs.1 lakh for loss of consortium. The amount, so awarded, is on higher side, in view of ratio of the authority **National Insurance Company Limited** Vs. **Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009, the claimants are entitled to get Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- towards funeral expenses. Adding that amount, the total compensation comes

out to Rs.28,07,800/- In that way, the claimants shall be entitled to get an additional compensation of Rs.12,85,000/-(Rs.28,07,800 – Rs.15,22,800/-) along with interest @ 7.5% p.a. from the date of filing of claim petition till actual realization along with costs of the petition. The other terms & conditions shall remain the same as given in the original award.

The appeal stands allowed.

05.03.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No