

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

F.A.O. No. 4443 of 2014

DATE OF DECISION :- April 02, 2019

Smt. Shashi and another

...Appellants

Versus

Sanjeev Kumar @ Sanju and others

...Respondents

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

Present:- Mr. K.S. Dhanora, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate
for Mr. Ravinder Arora, Advocate for respondent No. 3.

On account of death of Sumant Kumar, aged about 22 years, a labourer in a road side accident, which took place on 12.12.2011 at about 5.00 P.M., in the area of Arainpura Road, Gharaunda, District Karnal statedly due to rash and negligent driving of tractor trolley bearing No. HR06X-5963 driven by Sanjeev Kumar @ Sanju-respondent No. 1. Parents of deceased namely his mother Smt. Shashi, aged about 35 years and Hemant, aged about 15 years, a younger brother of the deceased had brought a claim petition under Section 166 of the Motor Vehicles Act against the respondents i.e. Sanjeev Kumar @ Sanju-driver, Ram Lakhan-owner and IFFCO TOKIO General Insurance Co. Ltd., Branch Office Gurgaon-insurer of tractor trolley bearing No. HR06X-5963. After contest, the claim petition was allowed by Motor Accident Claims Tribunal, Karnal

vide Award dated 9.9.2013 and compensation of Rs.4,96,000/- with interest at the rate of 7% per annum from the date of filing of the petition till actual realization was awarded to petitioner-claimants payable by respondents jointly and severally. The petitioners-claimants were dissatisfied with the amount of compensation awarded and they have approached this Court for enhancement of compensation by way of filing the present appeal.

Notice of the appeal was given to the respondents, who have put in appearance.

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

During the course of arguments, learned counsel for the claimants and learned counsel for respondent No. 3-Insurance Company have stated that the case be decided in terms of the law laid down by the Apex Court in '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***'.

The Tribunal, while deciding the claim petition has taken age of the deceased as 22 years and his income as 4500/- per month being that of a casual labourer, however, no addition towards future prospects was made. In view of the ratio of authority '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' in such an eventuality 40% of the amount is to be added towards future prospects. Doing that the monthly income of the deceased is taken as Rs.6300/- (Rs.4500 + Rs.1800). Considering the fact that the deceased was a bachelor, 50% of the amount is to be deducted towards his personal expenses, therefore, dependency of the claimants comes out to Rs.3150/- and annual dependency Rs.3150 x

12=Rs.37,800/-. The Tribunal has correctly used the multiplier of 18. Thus the total compensation is assessed as Rs.37800 x 18=Rs.6,80,400/-. The claimants are entitled to get Rs.15,000/- as funeral expenses and Rs.15,000/- on account of loss of estate. Considering that amount the total compensation amount is worked out to Rs.7,10,400/- (Rs.6,80,400 + Rs.30,000). The claimants have already been granted compensation of Rs.4,96,000/-. In this way, the enhanced amount comes to Rs.2,14,400/-. Therefore, the appeal is accepted and additional compensation of Rs.2,14,400/- with interest at the rate of Rs.7.5% per annum from the date of filing of the appeal till actual realization along with cost of the appeal is awarded to the claimants payable by respondents No. 1 to 3 jointly and severally. The other terms and conditions with regard to apportionment and payment shall remain the same as given in the Award by the Tribunal.

(H.S. MADAN)
JUDGE

April 02, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No