

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

FAO-3013-2015 (O&M)

Date of Decision: September 04, 2019

Babita Devi and others

Appellants

Versus

Kuldeep Singh @ Dhola and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Siddharth Gulati, Advocate
for respondent No. 1 and 2.

Ms. Sheenu Sura, Advocate
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

This is an appeal that has been filed seeking enhancement of compensation as allowed by the Motor Accident Claims Tribunal, Kaithal. It is not in dispute that wherein the appellants herein have been allowed compensation of ₹ 26,52,045/- on account of death of Birbhan Singla.

The brief facts of the case are that an accident took place on 15.04.2013 between a truck tipper bearing registration No.HR 64-2380 and an alto car bearing No. HR-07M-3516 in which the deceased Birbhan Singla, aged 38 years was traveling. On Account of death of Birbhan Singla, stated to be 38 years, a claim was filed before the MACT, Kaithal, which was contested by the respondents namely the Driver and the Insurance Company. After the evidence

was led, the Tribunal came to the conclusion that the offending vehicle was being driven in a rash and negligent manner which resulted into accident, that took place. The income of the deceased was assessed to be ₹2,15,737/- per annum and after deduction of income tax, the net income was assessed to ₹1,61,803/- per annum. A deduction of 1/4th was applied and therefore, a multiplier of 15 was allowed by taking into account the judgment as rendered in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation, 2009 (3) PLR 22**. The Tribunal also allowed a sum of Rs.1 lakh for loss of consortium and a sum of ₹1 lakh to be paid to the minor children for loss of love and affection along with funeral expenses to the tune of ₹25,000/-. The total compensation as assessed was ₹26,52,045/-.

Learned counsel for the appellant herein would contend that the compensation has not been assessed properly while allowing future prospects as has been allowed in a judgment titled as **National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**, which is a judgment rendered by the Constitutional Bench.

Per contra, learned counsel for the Insurance Company disputes the liability of paying a sum of ₹2 lakhs on account of loss of consortium and loss of love & affection by stating that the said compensation is not in consonance with the judgment rendered by the Constitutional Bench, however, does not dispute the fact that future prospects have not been allowed, which ought to have been assessed @ 40% of his income.

I have heard the learned counsels for the parties and found that the judgment passed by the MACT, Kaithal dated 20.11.2014 needs to be modified to the extent that the claimants would also be entitled to future prospects @ 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) RCR (Civil) 1009**. However, the

compensation towards loss of consortium and loss of love and affection is on the higher side and, therefore, the compensation as payable to be appellants is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Birbhan Singla
2	Date of accident	15.04.2013
3	Age of the deceased	38 years
4	Monthly income of the deceased	₹17978/- per month
5	40% of (iv) is to be added towards future prospects	(17978+7191)=25169/-
6	1/4 th of (v) above deducted towards personal expenses	(25169-6292)=18877/-
7	Compensation calculated after applying the multiplier of 15	18877x15x12 = ₹33,97,860/-
8	Conventional heads	₹70000/-
9	Total : (7+8)	₹34,67,860/-

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 ₹34,67,860/- 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.

September 04, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No