

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

FAO No. 3053 of 2015 (O&M)
Date of decision: August 26, 2019

Sukhjinder Kaur and another

...Appellants

Versus

Angrej Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Reena, Advocate for
Mr. B.S. Jaswal, Advocate
for the appellants.

None for respondents No.1 to 3.

Mr. Aseem Aggarwal, Advocate
for respondent No.4.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge the award dated 02.01.2015 passed by the Motor Accident Claims Tribunal, Amritsar, wherein the appellants herein have been allowed compensation of ₹5,00,000/- on account of death of their daughter Amandeep Kaur.

In brief, the facts are that on 21.05.2013, deceased Amandeep Kaur, aged 20 years was going to college from her house on her moped Activa bearing registration No.PB02-BP-8567 and she was followed by her cousin brother Surinder Singh son of Bawa Singh, who came to the house of Amandeep Kaur to meet her and her parents and was going back to his

house. When Amandeep Kaur reached near Apex Hospital situated on Batala Road at about 11.30 a.m., a bus bearing registration No.PB06-L-0059 driven by its driver respondent No.1 in a rash and negligent manner came from Batala road side at speed and struck against the moped of Amandeep Kaur without blowing horn, due to which she fell down on road and bus ran over her body and she died at the spot. The accident was witnessed by Surinder Singh, cousin brother of deceased, who was following deceased Amandeep Kaur. On the statement of Surinder Singh, FIR No.132 dated 21.05.2013 came to be lodged at Police Station A. Division, Amritsar. With these averments, claim petition was filed by the appellants. It was submitted that the deceased was hale and hearty at the time of accident and that the claimants suffered mental agony on account of death of their daughter. It was submitted that she was brilliant student of B.A. Part-II in Sarup Rani Government College for Women, Amritsar. She had done course of beautician from Nari Pragati Art & Craft Centre, Amritsar and also done diploma in Office and Management from Systematic Computer Coaching Centre, Amritsar and was also doing computer course from Indian Red Cross Society Computer Centre, Ranjit Avenue, Amritsar. Besides this, she was giving tuition to students and also doing work at beauty parlor. It was claimed that she was earning ₹ 8750/- per month from tuition and ₹ 3250/- per month from beauty parlor work. Compensation amounting to ₹ 21.50 lacs was claimed with interest.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable etc.

Issues were framed and thereafter evidence was led by the parties. In order to substantiate the claim, claimants examined Surinder Singh as AW1, Rajesh Soni as AW2, Balwinder Kaur as AW4, Tarveni Devi as AW5 and claimant No.2 Sukhdev Singh was examined as AW2. On the other hand, counsel for respondents No.2 and 3 closed the evidence after tendering some documents into evidence. Counsel for respondent No.4 also closed the evidence after tendering some documents into evidence.

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 before it allowed compensation of ₹5,00,000/- which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the compensation amount awarded to the appellants deserves to be enhanced. It is submitted that the Tribunal has not assessed the income of the deceased as per evidence and also has not made addition in the income of the deceased. It is also contended that multiplier of 15 has been applied by the Tribunal whereas it should have been 18 as per the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**.

On the other hand, learned counsel appearing on behalf of respondent No.4—Insurance company submits that adequate amount of compensation has been awarded by the Tribunal and no interference is

called for in the instant appeal.

I have heard learned counsel for the parties and perused the impugned award.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 20 years of age and her notional income was assessed as ₹ 30,000/- per annum. The Tribunal applied multiplier of 15 and also granted ₹ 50,000/- towards loss of love and affection, funeral expenses and last rites. In the present case, it was claimed that the deceased was earning ₹ 8750/- per month from tuition and ₹ 3250/- per from beauty parlor work. The claimants have not produced any cogent and convincing evidence to this effect. In the absence of any documentary evidence regarding the income of the deceased, this court thinks it proper to assess the income of the deceased, keeping in view the minimum wages prevailing at the time of the accident. As such, keeping in view the minimum wages prevailing at the time of accident, the income of the deceased is assessed at ₹ 6000/- per month. Increase in income on account of future prospects at the rate of 40%, deduction at the rate of ½ towards personal expenses, multiplier of 18 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 (supra)**. 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	Amandeep Kaur

(ii)	Date of accident	21.05.2013
(iii)	Age of the deceased	20 years
(iv)	Monthly income of the deceased	₹ 6000/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 6000+₹2400)= ₹ 8400/- per month
(vi)	1/2 rd of (v) above deducted towards personal expenses	(₹ 8400-₹4200) = ₹ 4200/- per month
(vii)	Compensation calculated after applying the multiplier of 18	(₹4200X12X18) = ₹ 9,07,200/-
(viii)	Funeral expenses	₹ 15000/-
(ix)	Compensation for loss of estate	₹ 15000/-
Total		₹9,37,200/-

As a sequel of my discussion above, the appeal is allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 9,37,200/- 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.

August 26, 2019

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No