

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

FAO No. 3299 of 2015 (O&M)
Date of decision: 22.7.2019

Anju Bala and another

...Appellants

Versus

Hardeep Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajeev Dev Sharma, Advocate,
for the appellants.

Mr. Suvir Dewan, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

This appeal seeks to challenge the award dated 4.12.2014 passed by the Motor Accident Claims Tribunal, Gurdaspur, wherein the appellants herein have been allowed compensation of ₹6,90,000/- on account of death of Rajvinder Kumar.

In brief, the facts are that on 17.12.2013 deceased Rajvinder Kumar was going on his bicycle from Bus Stand to Railway Station and when he reached near the Grain Market, Gurdaspur, he was hit by a tipper bearing registration No. PB-02-BU-9685 being driven by respondent No.1 in rash and negligent manner, as a result of which, Rajvinder Kumar received grievous injuries and died on the spot. Consequently FIR No. 221 dated 20.12.2013, under Sections 304-A, 279 IPC came to be lodged with the Police Station, City Gurdaspur. With these averments, claim petition

was filed by the widow, minor son and the mother of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working as a mason and was earning ₹20,000/- per month.

The claim petition was contested by the respondents, inter-alia, pleadings that no accident took place with the offending vehicle. Issues were framed and thereafter evidence was led by the parties in support of 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 before it allowed compensation of ₹6,90,000/-, which has been now challenged in the instant appeal.

Learned counsel for the appellant submits that the amount of compensation awarded to the appellants by the Tribunal is on the lower side and as such the same deserves to be enhanced. It is submitted that the deceased was working as a mason and as per the minimum rates of wages for semi skilled worker in the Punjab at the relevant time was ₹6475/-. Therefore, treating the deceased as semi skilled worker, the monthly income of the deceased ought to have been assessed at ₹6475/-, whereas the Tribunal has assessed monthly income of the deceased at ₹5,000/-. It is further submitted that the Tribunal has not granted any amount under the conventional heads. It is also contended that no amount has been awarded on account of future prospects. Therefore, the award of the Tribunal deserves to be modified and the compensation deserves to be enhanced.

On the other hand learned counsel appearing on behalf of respondent No.3—Insurance company 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 35 years of age and was earning ₹5000/- per month. The Tribunal deducted 1/3rd towards personal and living expenses of the deceased. Further the Tribunal, while applying the multiplier of 16 awarded the amount of compensation, as mentioned above. Undisputedly, the deceased was working as a mason at the time when the accident took place on 17.12.2013. At that time, as per the notification dated 16.9.2013, issued by the Office of Labour Commissioner, Punjab, the minimum rate of wages for semi skilled worker was ₹6475/-. Therefore, the monthly income of the deceased is assessed at ₹6475/-. Further, since the deceased was below 40 years of age and was self employed, increase in income on account of future prospects at the rate of 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) 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	Rajvinder Kumar
(ii)	Date of accident	17.12.2013
(iii)	Age of the deceased	35 years

(iv)	Monthly income of the deceased	₹ 6475/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 6475+₹2590)= ₹ 9065/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 9065-₹3022) = ₹6043 per month
(vii)	Compensation calculated after applying the multiplier of 16	(₹6043X12X16) = ₹ 11,60,256/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹ 12,30,256

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 ₹ 12,30,256/- and the amount in excess over what was awarded will also attract interest @6.5% per annum from the date of the instant appeal till the date of payment. However, it is made clear that the enhanced amount will be disbursed to the appellants in the present appeal i.e. widow and son of the deceased and the mother of the deceased shall have no right on the enhanced amount of compensation.

22.7.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No