

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

FAO No. 2366 of 2016 (O&M)
Date of decision: 14.10.2019

Shinder Kaur and others

...Appellants

Versus

Rajdeep Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Surinder Garg, Advocate,
for the appellants.

Mr. Pardeep Kumar, Advocate,
for respondent No.3—Insurance Company.

JAISHREE THAKUR, J.

This appeal seeks to challenge the award dated 6.1.2016 passed by the Motor Accident Claims Tribunal, Faridkot, wherein the appellants herein have been allowed compensation of ₹7,37,000/- on account of death of Gurdev Singh.

In brief, the facts are that on 21.12.2013, deceased Gurdev Singh, along with Lakhvir Singh, was going on a motorcycle bearing registration No. PB35-G-0865 and when they reached near Ambu Da Dhaba Sadiq Road, Faridkot, they were hit by a car bearing registration No. DL-5CE-1582, being driven by respondent No.1 in rash and negligent manner, as a result of which, both Gurdev Singh and Lakhvir Singh received grievous injuries. They were rushed to Guru Gobind Singh Medical

Hospital, Faridkot, where Gurdev Singh was declared dead due to multiple injuries sustained by him. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR No. 397 dated 22.12.2013 came to be lodged with the Police Station City Faridkot. With these averments, a claim petition was filed by the legal heirs of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was earning ₹35,000/- per month.

The claim petition was contested by the respondents, inter-alia, contending that no accident had ever taken place; the claim petition is vague, incomplete and does not disclose any cause of action etc. Issues were framed and thereafter evidence was led by the parties in order to substantiate 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 ₹7,37,000/-/-, which has been now challenged in the instant appeal.

Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal is on the lower side and the same deserves to be enhanced. It is submitted that the Tribunal has erred in assessing the income of the deceased at ₹5200/- per month, by taking into consideration the Notification dated 15.11.2012 issued by the Government of Punjab fixing the minimum rates of wages for an unskilled labour,

whereas the accident in the instant case took place on 21.12.2013, and the minimum rates of wages in the State of Punjab at the relevant time for an unskilled worker was ₹6250/- therefore, the monthly income of the deceased ought to have been assessed at ₹6250/-. It is further submitted that since there were seven dependent on the deceased for their livelihood, 1/5th should have been deducted towards personal expenses. It is further submitted that the Tribunal has not awarded any amount on account of future prospects in terms of **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.**

Per contra, learned counsel appearing on behalf of respondent No.3—Insurance company pleads that adequate compensation has been allowed to the appellants by the Tribunal and, therefore, there is no occasion for enhancement of the same. It is further submitted that the Tribunal has wrongly applied multiplier of 15, whereas since the deceased was 45 years of age, the multiplier of 14 ought to have been applied.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 45 years of age and was earning ₹5200/- per month. The Tribunal deducted 1/3rd towards living and personal expenses of the deceased. From the bare perusal of the record, it is apparent that the accident in the instant case had taken place on 21.12.2013, but the Tribunal took into consideration the Notification dated 15.11.2012 issued by the Government of Punjab for the purpose of assessment of income of the deceased. At the relevant time, the rates of minimum wages in the State of Punjab for an unskilled worker was ₹6250/-, and therefore, the

monthly income of the deceased is assessed at ₹6250/-. Further, the Tribunal has gone wrong in applying multiplier of 15, as per the judgment of the Hon'ble Supreme Court in **Pranay Sethi's case (Supra)**, multiplier of 14 would be applied. Also 1/5th ought to be deducted from the income so assessed of the deceased, keeping in view the fact that there were seven dependent on him. Moreover, increase in income on account of future prospects at the rate of 25% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **Pranay Sethi's case (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	Gurdev Singh
(ii)	Date of accident	21.12.2013
(iii)	Age of the deceased	45 years
(iv)	Monthly income of the deceased	₹ 6250
(v)	25% of (iv) is to be added towards future prospects	(₹ 6250+₹1562)= ₹ 7812/- per month
(vi)	1/5 th of (v) above deducted towards personal expenses	(₹ 7812-₹1562) = ₹ 6250/- per month
(vii)	Compensation calculated after applying the multiplier of 14	(₹6250X12X14) = ₹ 10,50,000/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹ 11,20,000

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 ₹ 11,20,000/- and the amount in excess

over what was awarded will also attract interest @7.5% from the date of the instant appeal till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

14.10.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No