

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

FAO-275-2016 (O&M)

Date of decision: 01.05.2019

Rajinder Kaur

...Appellant

Versus

Romi R. Mashia and others

...Respondents

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

Present: Mr. Viney Saini, Advocate for
Mr. G.S. Nagra, Advocate for the appellant.

Mr. Sandeep Suri, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

On account of death of Gurjant Singh, aged about 20 years, in a motor vehicular accident, which took place on 16.01.2015 at about 07.30 PM, in the area near Police Line, statedly on account of rash and negligent driving of Mahindra Genio bearing registration No.PB-12-T-0377 (hereinafter referred to as the offending vehicle) by respondent No.1-Romi R. Mashia, his mother Smt. Rajinder Kaur had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents i.e. Romi R. Masih-driver, Ashok Kumar-owner and ICICI Lombard General Insurance Company Ltd., Rupnagar-insurer of the offending vehicle in question, claiming compensation of Rs.50 lacs.

Notice of the claim petition was given to the respondents, who put in appearance, contesting the claim petition. However, vide

award dated 07.10.2015, the claim petition was accepted and compensation of Rs.7,71,000/- along with interest @ 8% p.a., from the date of filing of claim petition till actual realization was awarded to the claimant, payable by all the respondents, jointly and severally.

The claimant was dissatisfied with the amount of compensation awarded to her by the tribunal and has approached this Court, seeking enhancement of said compensation, by way of filing an appeal, notice of which was given to the respondents, who have put in appearance through counsel. Subsequently, counsel for respondent Nos.1 & 2 stopped appearing and now the appeal is being contested by respondent No.3 only.

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

At the very outset, it may be stated that the counsel have agreed that the appeal be disposed of in terms of judgment **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009**. It may be mentioned that the tribunal has taken the monthly income of the deceased to be Rs.6000/- and allowed an addition of 50% towards future prospects. However, as pointed out by learned counsel for the appellant/claimant, in terms of the communication issued by the office of Labour Commissioner, Punjab, Chandigarh, bearing No.ST-23879 dated 04.10.2016, the minimum wages paid to an unskilled worker on 01.09.2014 were Rs.6660.10/-, of course, the income of the deceased is to be taken in the light of minimum wages payable to an unskilled worker at the relevant time. This fact is not disputed by learned

counsel for respondent No.3 even. Therefore, instead of Rs.6000/-, the monthly income of the deceased is taken to be Rs.6660/-. The tribunal has allowed an addition of 50% towards future prospects, however, in terms of the authority Pranay Sethi (supra), 40% of the amount could be added as future prospects. Doing that, the monthly income of the deceased comes out to Rs.9324/- (6660+2664) and annual income worked out to Rs.1,11,888/-

Since, the deceased was a bachelor, 50% of the amount is to be deducted towards his personal expenses. Doing that, the dependency of his mother-the claimant, comes out to 55944/- per annum (4662 X 12).

The tribunal has fallen in error in adopting multiplier of 14 considering the age of the claimant, when in terms of the judgment Pranay Sethi (supra) age of the deceased should have been considered to see as to which multiplier was applicable. Under the circumstances, multiplier of 18 is required to be applied. Doing that, the total compensation is worked out to Rs.10,06,992/-

The tribunal has granted Rs.10,000/- towards funeral expenses and Rs.5000/- towards transportation. However, under conventional heads, the claimant is entitled to get a sum of Rs.15,000/- as funeral expenses and Rs. 15,000/- towards loss of estate, total Rs.30,000/-. Adding the said amount, the total compensation is worked out to Rs.10,36,992/-.

Deducting the compensation awarded by the tribunal i.e. Rs.7,71,000/-, the claimant is found entitled to get an additional compensation of Rs.2,65,992/- (10,36,992 – 7,71,000) along with

interest @ 7.5% per annum from the date of filing of the appeal till actual realization along with costs on the enhanced amount, payable by respondent Nos.1 to 3, jointly and severally. Accordingly, the appeal stands partly allowed.

01.05.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No