

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

FAO No.3061 of 2016 (O&M)

Date of Decision.20.11.2019

Beena and others

...Appellants

Vs

Gautam Mohan @ Gautam Mehem and another

...Respondents

Present: Mr. Vishal Munjal, Advocate
for the appellants.

Ms. Geeta Choudhari, Advocate and
Mr. V. Choudhari, Advocate
for the insurance company.

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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JAISHREE THAKUR J. (ORAL)

This appeal has been preferred against the award of the Motor Accident Claims Tribunal, Pathankot dated 01.08.2015 seeking enhancement of compensation on account of death of one Rajesh Kumar aged 27 years.

In brief, the facts are that an accident took place on 19.12.2010 when a Santro car bearing registration No.PB-06-J-2959 being driven rashly and negligently by respondent No.1-Gautam Mohan, struck against the motor cycle of Rajesh Kumar. Due to impact of the accident, Rajesh Kumar received serious head injuries. He was taken to Raavi Hospital Mamoon from where he was referred to the hospital at Amritsar. He remained hospitalized in various hospitals from the date of accident till his death on 12.12.2011. A criminal case bearing FIR No.134 dated 19.12.2010 under Sections 279, 337, 338, 427 IPC was also registered. Deceased-Rajesh Kumar was employed with M/s Four Wheels Co. as Sales Executive and

was stated to be earning ₹10,000/- per month.

The claim petition was contested and the Tribunal allowed the claim based upon statement given by AW8 Rinku Mashi, eye witness, who supported the case as set up. The Tribunal on appreciation of evidence brought on record, took income of the deceased as ₹10,000/- per month, applied a deduction of 50% towards personal expenses and applied multiplier of 17 to assess total compensation of ₹14,16,682/- including ₹3,71,862/- towards medical expenses and ₹25,000/- under conventional heads.

Learned counsel appearing on behalf of the appellants would contend that the amount of compensation as assessed by the Tribunal is wholly inadequate, as the Tribunal has failed to provide future prospects in terms of judgment rendered by Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others (2017) 13 SCALE 12, 2017 (4) RCR (Civil) 1009** while arguing that the amount assessed towards loss of estate and funeral expenses is also on lower side.

Ms. Geeta Chaudhari and Mr. Vinod Choudhari, learned counsel appearing on behalf of the insurance company submit that the Tribunal has assessed each and every head of compensation correctly and there is no scope for enhancement.

I have heard learned counsel for the parties, appraised the paper book and am of the view that there is scope for enhancement, as the Tribunal did not provide an increase of 40% in case where the deceased was self-employed or on a fixed salary and was below the age of 40 years. AW-3 Ankit Bhasin, Manager of M/s Four Wheels Co. deposed that Rajesh Kumar was employed with his company on a salary of ₹10,000/- per month

and corroborated the same by producing salary certificate Ex.AX. Therefore, I will provide an increase of 40% towards future prospects on salary of deceased i.e. ₹10,000/- per month and make 50% deduction towards personal expenses, as the deceased was a bachelor. The multiplier of 17 applied by the Tribunal is correct and I will also retain the amount of ₹3,71,862/- provided towards medical expenses, based on the bills brought on record and proved by way of cogent evidence. I will further provide a sum of ₹15,000/- each towards loss of estate and funeral expenses.

In all, the compensation payable shall be ₹18,29,862/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of claim petition till realization. The liability shall remain the same as has already been determined by the Tribunal. The enhanced amount shall be distributed equally amongst the claimants/appellants.

The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(JAISHREE THAKUR)
JUDGE

November 20, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No