

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

FAO No. 4705 of 2015 (O&M)
Date of decision: July 05, 2019

Gurmeet Kaur and others

...Appellants

Versus

Sarfudin and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Barjinder Singh, Advocate for
Mr. Rakesh Gupta, Advocate
for the appellants.

Ms. Sheenu Sura, Advocate
for respondent No.3-Insurance Company.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge the award dated 09.01.2015 passed by the Motor Accident Claims Tribunal, Patiala, wherein the appellants herein have been allowed compensation of ₹10,05,000/- on account of death of Mukhtiar Singh @ Mukha.

In brief, the facts are that on 30.12.2011 deceased Mukhtiar Singh @ Mukha along other persons were going from village Fatehpur Rajputtan, Tehsil and District Patiala towards Balbhera BM Sheller for loading wastage of paddy crop (foos) in a truck bearing registration PB11-F-9235, which was being driven by Satnam Singh. Deceased along with other persons were sitting in the driven cabin. At about 4.30 a.m. when they reached at Beer Kulle Majra, a truck bearing registration No.RJ02-GA-1763

loaded with iron angles was lying parked on the main road without any lighting/dipper and due to fog, the defending truck struck against the offending truck, as a result of which all the persons sitting in the cabin of defending truck No.PB11-F-9235 received multiple injuries. Apart from others, deceased received injuries on his head and legs. The injured were removed to Rajindra Hospital, Patiala, however, the deceased succumbed to the injuries on the way. The accident occurred due to negligent of parking truck without signal by respondent No.1. Consequently, FIR No.307 dated 30.12.2011 for offences under Sections 279, 337, 338, 304-A of Indian Penal Code was registered with Police Station Sadar, Patiala. With these averments, claim petition was filed by the widow and the children of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working as labourer, apart from delivering milk and in this way, he was earning total ₹ 14,500/- per month.

The claim petition was contested. Written statements were filed by respondents No.1 and 3 respectively. Thereafter, issues were framed and evidence was led and after scrutiny of the evidence brought on record, the Tribunal held that the the accident was caused by respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹10,05,000/-, 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 as such the

compensation amount awarded to the appellants deserves to be enhanced.

Learned counsel for respondent No.3-Insurance Company submits that adequate amount of compensation has been awarded by the Tribunal and no interference is called for.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 48 years of age and was earning ₹7500/- per month. The Tribunal deducted 1/3rd towards personal expenses of the deceased. The Tribunal rightly applied the multiplier of 13. However, did not award anything on account of future prospects at the rate of 25%. Conventional heads are required to be awarded, 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	Mukhtiar Singh @ Mukha
(ii)	Date of accident	30.12.2011
(iii)	Age of the deceased	48 years
(iv)	Monthly income of the deceased	₹ 7500/-
(v)	25% of (iv) is to be added towards future prospects	(₹ 7500+₹1875)= ₹ 9375/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 9375-₹3125) = ₹ 6250/- per month
(vii)	Compensation calculated after applying the multiplier of 13	(₹6250X12X13) = ₹ 9,75,000/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000

(x)	Compensation for loss of estate	₹ 15000
Total		₹10,45,000/-

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 ₹ 10,45,000/- 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.

July 05, 2019

vijay saini

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No