

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

FAO No. 3846 of 2016 (O&M)
Date of decision: 12.4.2019

Anguri and others

...Appellants

Versus

Raj Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Arun Sharma, Advocate,
for the appellants.

Mr. Durgesh Duggal, Advocate,
for respondents No. 1 and 2.

JAISHREE THAKUR, J.

This appeal seeks to challenge the award dated 1.3.2016 passed by the Motor Accident Claims Tribunal, Karnal, wherein the appellants herein have been allowed compensation of ₹13,38,840/- on account of death of Ishwar Chand.

In brief, the facts are that on 15.6.2014 deceased Ishwar Chand, along with his nephew, was coming to his village from his fields on a motor cycle No. HR-05H-8197, being driven by his nephew Jagdish at a very moderate speed. When they reached near house of Mamraj Rana, at about 10 a.m., they were hit by a car bearing registration No. HR-05-X-3556, being driven by respondent No.1 in rash and negligent manner, as a result of which, Ishwar Chand fell down and received multiple injuries and ultimately

succumbed to the injuries on 17.6.2014. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently an FIR under Sections 279/304A IPC came to be registered. With these averments, a claim petition was filed by the wife and children of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was running a milk dairy and also a kiriyana shop and was earning ₹15,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action has accrued etc. Issues were framed and thereafter oral as well as documentary evidence was led by the parties.

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 awarded compensation of ₹13,38,840/- which has been now challenged in the instant appeal.

Learned counsel for the appellants 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. It is submitted that the Tribunal has erred in treating the deceased Ishwar Chand as casual labourer and assessing his monthly income as ₹6800/-. It is submitted that in fact the deceased was running a milk dairy and a kiriyana shop as well and from all sources he was earning ₹15,000/- per month.

I have heard learned counsel for the parties and have perused

the impugned award.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 45 years of age and while treating him as unskilled labourer held that he would have been earning ₹6800/- per month, as per D.C. rate. The Tribunal did not pay any heed to the argument that the deceased was earning ₹15,000/- per month as no evidence was adduced in this regard. The Tribunal further following the law laid down by the Hon'ble Supreme Court in **Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 (SCC) 121 and others**, added 30% towards future prospects and while holding that the deceased left behind six members, who were dependent on him, deducted 1/4th towards personal and living expenses of the deceased. Since the deceased was 45 years of age at the time of occurrence, a multiplier of 14 was applied and the amount of compensation, as mentioned above, was awarded.

From a bare reading of the impugned award, this Court is of the view that the findings recorded by the Tribunal are based on the proper appreciation of the evidence brought on record and the findings cannot be said to be perverse. Otherwise also, the award passed by the Tribunal is just and proper in terms of recent Constitutional Bench judgment of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009** and there is no scope for further enhancement of compensation.

Consequently, the appeal filed by the the appellants being devoid of merit stand dismissed.

12.4.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No