

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

FAO-4893-2015 (O&M)

Date of Decision: October 22, 2019

Jagdev Singh and others

Appellants

Versus

Gurdeep Singh and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajbir Singh, Advocate
for the appellants.

None for respondent Nos.1 and 2.

Mr. Ashwani Talwar, Advocate
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

The instant appeal has been filed seeking to challenge the award dated 12.03.2015 passed by the Motor Accident Claims Tribunal, Barnala on the ground that the compensation as awarded is inadequate.

In brief, the facts are that the claimants filed a claim petition under Section 166 of the Motor Vehicles Act for grant of compensation on account of death of Jaspal Kaur. The claim petition was filed by the husband, son and two daughters. It was submitted that on 17.05.2014, the deceased along with Dalip Kaur, Manjit Kaur was returning to the village from the fields after collecting fodder, when she was hit by a vehicle bearing registration No. PB-13-R-6405 which was being driven by respondent No.1 in a rash and negligent manner. As a result of the said

accident, all the three ladies fell down and sustained multiple injuries. The respondent escaped along with his vehicle. The injured ladies were taken to the Civil Hospital, Barnala where Jaspal Kaur was declared as dead by the doctors. Consequently, an FIR bearing No. 21 dated 17.05.2014 was registered under Sections 279,337, 304-A IPC against respondent No.1.

The claim petition was contested by the respondents and the factum of the accident was denied. The Insurance Company took the plea that the driver of the vehicle did not hold a valid and effective driving licence at the time of the accident. Thereafter issues were framed and evidence adduced. The Tribunal thereafter, held that Jaspal Kaur, the deceased died due to the rash and negligent driving of truck bearing No. PB-13-R-6405. The Tribunal, on appreciation of the evidence came to allow an amount of ₹ 4,05,000/- to the claimants as compensation. Taking the income of the deceased as ₹2500/- being a house-wife, a multiplier of 13 was applied while allowing a further amount of ₹10000/- towards funeral expenses and ₹5000/- towards loss of consortium. Aggrieved against the said compensation, the appeal has been filed.

Mr. Rajbir Singh, learned counsel for the appellants would contend that the amount of compensation is wholly inadequate as the Tribunal has erred in awarding only a sum of ₹2500/- towards her income. In fact he argues that the accident took place in the year 2014 and the High Court in a judgment rendered in '*United India Insurance Company Limited vs. Sube Singh and Others*' in FAO-218-2014 decided on 15.01.2014 had taken the income of a housewife to be ₹9000/-. It is further argued that the amount of compensation as assessed under the conventional heads and future prospects

have not been allowed properly as has been allowed in a judgment titled as **National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**, which is a judgment rendered by the Constitutional Bench.

Per contra, learned counsel for the Insurance Company disputes the liability by stating that the said compensation is not in consonance with the judgment rendered by the Constitutional Bench. However, the learned counsel does not dispute the fact that future prospects as well as under conventional heads have not been allowed, which ought to have been assessed as per the judgment rendered in **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.**

I have heard the learned counsels for the parties and found that the judgment passed by the MACT, Barnala dated 12.03.2015 needs to be modified to the extent that the claimants would also be entitled for the enhanced income of the deceased i.e. ₹9000/- per month instead of ₹2500/- as allowed by the Co-ordinate Bench in '**United India Insurance Company Limited vs. Sube Singh and Others**' in FAO-218-2014 decided on 15.01.2014. The role of a housewife can not be diminished. Apart from being a home maker, she also performs multifarious tasks for which she is not paid. Keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**, the compensation as payable to the appellants is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Jaspal Kaur
2	Date of accident	17.05.2014
3	Age of the deceased	45 years
4	Notional income of the deceased housewife	9000/- per month

Sr. No.	Heads of claim	Calculation
5	Compensation calculated after applying the multiplier of 14	9000x12x14=15,12,000/-
6	Conventional heads (as allowed by Pranay Sethi case)	70000/-
7	Total : (5+6)	15,82,000/-

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 ₹15,82,000/- and the amount in excess and over what was awarded will also attract interest @7.5% from the date of filing of the appeal in this Court till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

October 22, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No