

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

CM No. 15165 CII of 2015 in/and
FAO No. 4951 of 2015 (O&M)
Date of decision: 14.3.2019

Smt. Balwant Kaur and another

...Appellants

Versus

Shalwinder Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. Riya Bansal, Advocate,
for the appellants.

None for respondents 1 and 2.

Ms. Vandana Malhotra, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

CM No. 15165 CII of 2015

Heard.

For the reasons stated in the application, which is supported by
an affidavit, the delay in filing the appeal is condoned.

Main case.

1. This appeal seeks to challenge the award dated 20.9.2014
passed by the Motor Accident Claims Tribunal, Ludhiana, wherein the
appellants herein have been allowed compensation of ₹7,21,200 on account
of death of Gurpal Singh.

2. In brief, the facts are that on 20.4.2013, deceased Gurpal Singh,

along with his cousin brother, was going on his motorcycle and when they reached in the Civil Hospital, Khanna, a container Truck bearing registration HR-38U-2377 being driven by respondent No.1 and going parallel to Gurpal Singh. The driver of the container truck all of sudden took a turn without any indicator or signal, as a result of which Gurpal Singh struck against the aforesaid container truck and suffered multiple grievous injuries. He was taken to Civil Hospital, Khanna, where he was declared dead by the doctor. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR 100 dated 21.4.2013 came to be lodged in this regard. With these averments, claim petition was filed by the mother and the sister of the deceased, claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was a driver and was earning ₹10,000/- per month.

3. Respondents No.1 and 2 did not appear before the Tribunal despite service and they were proceeded against ex-parte vide order dated 5.8.2013. The claim petition was contested by respondent No.3—Insurance Company, inter-alia, contending that the same deserves to be dismissed for mis-joinder and non-joinder of necessary and proper parties. In order to substantiate the claim, appellant No.1 stepped into the witness box as CW2 and also produced Jawant Singh as CW1. On the other hand, the respondent No.3 tendered insurance cover in evidence Ex. R1 and closed the evidence.

4. After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it

allowed compensation of ₹7,21,200/- which has been now challenged in the instant appeal.

5. 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.

6. None has appeared on behalf of respondents 1 and 2 despite serviced, therefore, this Court is left with no option but proceed to decide in their absence.

7. The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 22 years of age and was earning ₹6400/- per month. The Tribunal held that since the deceased was unmarried, therefore, deducted 50% towards his personal expenses. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly taken the income of the deceased as ₹6400/- per month and while applying the multiplier of 18 rightly awarded the amount of compensation, as mentioned above. However, increase in income on account of future prospects at the rate of 40% and other conventional heads are required to be reckoned, 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 are re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Gurpal Singh
(ii)	Date of accident	20.4.2013

(iii)	Age of the deceased	22 years
(iv)	Monthly income of the deceased	₹ 6400
(v)	40% of (iv) is to be added towards future prospects	(₹ 6400+₹2560)= ₹ 8960/- per month
(vi)	50% above deducted towards personal expenses	(₹ 8960-₹4480) = ₹ 4480/- per month
(vii)	Compensation calculated after applying the multiplier of 18	(₹4480X12X18) = ₹ 9,67,680/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of estate	₹ 15000
Total		₹9,97,680

8. 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 ₹ 9,97,680/- 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.

14.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No