

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

FAO-7553-2014 (O&M)

Date of Decision: October 22, 2019

Malkiat Singh and another

Appellants

Versus

Manoj Kumar and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Shivender, Advocate
for Mr. B.S. Bhalla, Advocate
for the appellant.

Mr. Premjit Singh Dhaliwal, Advocate
for respondent No.1.

Ms. Madhu Sharma, Advocate
for respondent No. 3/Insurance Co.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge the award dated 06.12.2013 passed by the Motor Accident Claims Tribunal, Moga, wherein the appellants herein have been allowed compensation of ₹4,42,000/- on account of death of Daljinder Singh son of the appellants No.1 & 2.

In brief, the facts are that on 17.11.2012 at about 02.00 a.m., Daljinder Singh and Amandeep Singh s/o Malkiat Singh had been coming to village Gagra on a motor-cycle bearing No.PB-25-D-1531. Jai Singh s/o Sarwan Singh and Makhan Singh s/o Gurnam Singh had been following them. They had been returning from Moga City after attending a marriage. When they were passing by the Drug Addition Centre, then a Scorpio of

white colour bearing registration No.HR26A-5812 coming from opposite side, being driven by respondent No.1 in rash and negligent manner, hit the motor cycle of Amandeep Singh and Daljinder Singh, due to which both fell down and suffered severe injuries. Then Jai Singh and Makhan Singh took both the injured to the Harbans Nursing Home, but due to their critical condition they were taken to DMC Hospital, Ludhiana where Daljinder Singh was declared brought dead and Amandeep Singh succumbed to his injuries in the hospital. The police registered an FIR No.118 dated 17.11.2012 under Sections 279/304-A and 427 of the IPC in Police Station Kot Ise Khan, District Moga. With these averments, a claim petition was filed by the parents for compensation of ₹40 lacs along with interest @ 18% per annum. It was claimed that the deceased was 23 years old, a regular student of BA Final Year and was also doing cultivation work besides dairy farming.

Upon notice, the claim petition was contested by the respondent Nos.1 and 2 jointly and respondent No.3 separately by filing their separate written statements. They have inter-alia took preliminary objections that the petition was not maintainable and that no such accident took place and that the amount claimed is exaggerated. Respondent No.3 averred that the claim petition is not maintainable as Amandeep Singh was not holding valid driving license and even respondent No.1 was not holding valid driving license at the time of the alleged accident. It was also averred that the petition has been filed in collusion with respondent No.1 and 2. It was also denied for want of knowledge that the alleged accident took place. Issues were framed and thereafter evidence was led by the parties. In order to

substantiate the claim, appellant No.1 himself stepped into the witness box as PW2 and eye-witness-Jai Singh as PW1.

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 allowed compensation of ₹4,42,000/- along with interest @ 6% per annum which has been sought to be enhanced in the instant appeal.

I have heard learned counsel for the parties and gone through the pleadings of the case.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 23 years of age. 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 ₹4000/- per month. 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**. Keeping in view that the deceased was a bachelor, 1/2th deduction should have to be made on his income for personal expenses. Therefore, compensation payable is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Daljinder Singh
2	Date of accident	17/11/12
3	Age of the deceased	23 years

Sr. No.	Heads of claim	Calculation
4	Monthly income of the deceased	4000/- per month
5	40% of (iv) is to be added towards future prospects	(4000+1600)=5600/-
6	1/2 of (v) above deducted towards personal expenses	(5600-2800)=2800/-
7	Compensation calculated after applying the multiplier of 18	2800x12x18=6,04,800/-
8	Conventional heads	30,000/-
9	Total : (7+8)	6,34,800/-

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable is assessed at ₹6,34,800/-. The amount in excess over and above what was awarded will also attract interest @7.5% per annum from the date of filing of the appeal in this Court till the date of payment.

October 22, 2019
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No