

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

F.A.O. No. 5198 of 2016

DATE OF DECISION :- May 03, 2019

Boota Singh and others

...Appellants

Versus

Bhagwan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. G.S. Salana, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate
or respondent No. 2-Insurance Company.

On account of death of Asha Rani wife of Sh. Boota Singh, in a motor vehicular accident which took place on 30.3.2015 at about 8.25 A.M., in the area of near Manav Ruhani Centre canal minor of village Ajnali, statedly on account of rash and negligent driving of a truck bearing registration No. RJ-31-GA-2455 by respondent no. 1 Bhagwan Singh, legal representatives of deceased Smt. Asha Rani namely her husband Boota Singh, aged about 38 years, minor sons Pardeep Singh, aged about 17 years, Gurdeep Singh aged about 16 years, daughter Anjali, aged about 13 years, Dharampal alias Dharampal Singh, aged about 61 years father-in-law, Mrs. Gurdev Kaur, aged about 59 years mother-in-law has brought the claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Bhagwan Singh (driver-cum-owner) and The New India Assurance Company Limited, Mandi Dabwali, District Sirsa-insurer of Truck No. RJ-31-GA-2455 (hereinafter

referred to as the offending vehicle), claiming compensation.

After contest, the Motor Accident Claims Tribunal, Fatehgarh Sahib accepted the petition vide award dated 28.1.2016 granting compensation of Rs.8,93,000/- to claimants No. 1 to 4 since claim petition qua claimants No. 5 and 6 have been withdrawn. The details of the apportionment are given in the award. The liability to pay this amount was held to be joint and several qua both the respondents. The claimants were not satisfied with the amount awarded by the Tribunal and has approached this Court by way of filing this appeal.

Notice of appeal was given to respondent No. 2-Insurance Company which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The Tribunal, while taking the age of the deceased to be 35 years and her status as a house wife has quantified the services rendered to her family to the tune of Rs.4,000/-. However, I find that the amount so taken is on the lower side, therefore, I find it proper and appropriate to take this amount as Rs.6,000/-. Since the amount so taken is not in the form of income rather monetary value of services rendered by the deceased, no deduction towards personal expenses is to be made there from and similarly no enhancement towards future prospects is to be allowed. The annual amount of services come out to Rs.72,000/- (6,000 x 12). Keeping in view the age of the deceased, the Tribunal had rightly adopted multiplier of 16, therefore, the total compensation payable is arrived at Rs.11,52,000/- (72,000 x 16).

The Tribunal has awarded a sum of Rs.25,000/- to the claimants as funeral expenses and Rs.1,00,000/- to claimant No.1 under the conventional

Head loss of consortium. However, in view of judgment *National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009* the claimants are entitled to get Rs.70,000/- under conventional Heads. Doing that the total compensation is arrived at Rs.12,22,000/- (11,52,000 + 70,000). The Tribunal has awarded a sum of Rs.8,93,000/- to the claimants. In that way they are entitled to additional compensation of Rs.3,29,000/-. The liability to pay this amount to be jointly and severally qua both the respondents. Therefore, the appeal is accepted partly and additional compensation of Rs.Rs.3,29,000//- with interest at the rate of 7.5% per annum from the date of filing of the appeal till actual realization along with cost of the appeal is awarded to the claimants payable by both the respondents jointly and severally. The other terms and conditions with regard to apportionment and payment amongst the claimants shall be the same as given in the impugned award.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

May 03, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No