

210

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

FAO No.687 of 2015 (O&M)
Date of Decision: 06.11.2019

Darshana Devi and others

.....Appellants

Versus

Julfikar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Susheel Gautam, Advocate
for the appellants.

Mr. Puneet Pali, Advocate for
Mr. Mohd. Salim, Advocate
for respondent Nos.1 and 2.

Mr. Suman Jain, Advocate for
Mr. Shubham Jain, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (ORAL)

CM-1881-CII-2015

For the reasons mentioned in the application, the same is
allowed and the delay of 76 days in filing of the appeal is condoned.

Main Case

The present appeal has been filed for enhancement of
compensation granted vide award dated 10.07.2014, passed by the Motor
Accident Claims Tribunal, Panipat (for short, the Tribunal).

While praying for enhancement, learned counsel for the
appellants submitted that no future prospects have been granted, it should be
25%. Similarly, the amount under the conventional heads too should be
enhanced to ₹70,000/-, whereas, ₹60,000/- has been granted.

Learned counsel for respondent No.3-insurance company is not in a position to dispute the well settled proposition of law rendered by Hon'ble the Apex Court in case National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680, granting future prospects @ 25% as also the enhanced amount of ₹10,000/- under the conventional heads.

At this stage, learned counsel for the appellants submitted that the contributory negligence should not have been applied as the deceased/injured was a pillion rider. It was contended that the plea of contributory negligence on the basis of three persons riding on the motorcycle was not accepted by learned Single Bench of Rajasthan High Court rendered in the case of RSRTC Vs. Dharmendra Singh and others, decided on 09.04.2012, while relying on the another similar judgment of the same High Court. However, each case depends on its own facts. In the present case, admittedly, the deceased/injured was one of the pillion rider alongwith two other persons on the same motorcycle knowing fully well that three persons are not permitted. Therefore, he was guilty to the said extent. Moreover, the driver of the said motorcycle was not impleaded as party. Accordingly, the said argument has no merit and the same is rejected.

In view of the above, the award is modified by enhancing the amount only under the conventional heads as well as the future prospects as mentioned above. The enhanced amount of ₹1,41,664/- be paid to the appellants as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹4500/- per month

Sr. No.	Head	Amount assessed
2	Future Prospects	25% (4500 x 25% = ₹1125) ₹4500 + 1125 = ₹5625/-
3	Deduction	1/4th 1/4th of 5625 = ₹1406/- 5625 – 1406 = ₹4219/-
4	Multiplier	13 (4219 x 13 x 12 = ₹6,58,164/-)
5	Conventional Heads.	₹70,000/-
6	Total	₹7,28,164/-
7	Compensation awarded by the Tribunal	₹5,86,500/-
8	Differences	₹728164 – 586500 = ₹1,41,664/-

Thus, the enhanced compensation of ₹1,41,664/- be paid to appellants within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition till its realization.

In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

(NIRMALJIT KAUR)
JUDGE

06.11.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No