

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

FAO No. 7497 of 2015 (O&M)
Date of Decision: 10.9.2019

Shankar Lal and another

...Appellants

Versus

Lallu and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Johan Kumar, Advocate,
for the appellants.

Mr. Pradeep Kumar, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

1. This is an appeal that has been filed seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Palwal, on account of death of Baljeet in a road accident.

2. In brief, the facts are that claimants—appellants filed a claim petition under Sections 166/140 of the Motor Vehicles Act, 1988 seeking compensation, amounting to ₹25 lakhs on account of the death of Baljeet, aged 22 years. The deceased Baljeet was going to Hathin on his motor cycle bearing registration No. HR-B-1826 and when he reached Bhanguri Ware House, Village Bhanguri, a Swift car bearing registration No. HR-30-J-6070, being driven by respondent No.1 in a rash and negligent manner, hit him, as a result of which, Baljeet fell down and sustained injuries. The

driver of the offending car fled from the spot. On account of the injuries, Baljeet was rushed to B.K. Hospital, Faridabad, however, as his condition deteriorated, he was admitted to Om Spero Hospital at Palwal, where he succumbed to his injuries. In respect of the said accident, an FIR No. 283 dated 3.9.2012 was registered at Police Station Hathin, under Sections 279, 304-A IPC.

3. The claim petition was contested by respondents No.1 and 2, who denied the accident. The claim petition was also contested by the Insurance Company denying the liability to pay compensation. Thereafter, issues were framed and evidence led and on the basis of the evidence of PW-2, who was an eye witness to the occurrence, the Tribunal held that respondent No.1 was negligent in driving the offending vehicle which had resulted in the accident, causing death of Baljeet. Thereafter, the Tribunal proceeded to assess the compensation that would be payable and took the notional income of the deceased at ₹5,000/- per month. The Tribunal deducted 1/2 of the income towards personal expenditure of the deceased. A multiplier of 18 was applied. Apart from that, ₹10,000/- was awarded on account of funeral expenses and ₹50,000/- were granted on account of loss of love and affection. The total compensation payable to the claimants/appellants was assessed at ₹6,00,000/-. Aggrieved against the said compensation, the instant appeal has been filed by taking the grounds that the compensation has not been assessed in terms of the judgment rendered in **Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 SCC 121 and National Insurance**

Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.

4. Learned counsel for the appellants submits that the Tribunal has not granted any amount of compensation on account of loss of estate and future prospects of earning of the deceased.

5. On the other hand, learned counsel appearing on behalf of the Insurance Company pleads that adequate compensation has already been allowed to the appellants by the Tribunal and, therefore, there is no occasion for enhancement of the same.

6. I have heard learned counsel for the parties and have also perused the impugned award.

7. The Tribunal, on scrutiny of the evidence produced by the respective parties, allowed the claim petition and assessed the compensation payable at ₹6,00,000/-. The accident on account of the rash and negligent driving of respondent No.1 stands established on the record, as the evidence produced by the appellants could not be rebutted by the respondents by leading any cogent or convincing evidence. Therefore, the only question that needs to be considered is, whether the compensation as assessed by the Tribunal is in consonance with the judgments rendered in **Sarla Verma** and **Pranay Sethi (supra)**?

8. Admittedly, there was no income proof on the record and, therefore, the Tribunal has rightly taken the notional income of the deceased at ₹5,000/- per month on the basis of the minimum wages as applicable at the relevant time. Further, the Tribunal has rightly applied the

multiplier of 18, considering the age of the deceased to be 22. Further, though the Tribunal rightly deducted one half of the income of the deceased towards his personal living expenses, but the Tribunal has gone wrong in not awarding any amount of compensation on account of loss of estate and future prospects of earning of the deceased. The Tribunal ought to have awarded 40% on account of future prospects, in view of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited (supra)**. Therefore, 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 (Supra)** and the same is re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Baljeet
(ii)	Date of accident	31.8.2012
(iii)	Age of the deceased	22 years
(iv)	Monthly income of the deceased	₹ 5,000/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 5000+₹2000)= ₹ 7000/- per month
(vi)	1/2 of (v) above deducted towards personal expenses	(₹ 7000-₹3500) = ₹ 3500/- per month
(vii)	Compensation calculated after applying the multiplier of 18	(₹3500X12X18) = ₹ 7,56,000/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of estate	₹ 15000
Total		₹7,86,000

9. 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 ₹ 7,86,000/- 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.

10.9.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No