

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

Sr. No.260

FAO-7711-2015 (O&M)
Date of decision: 11.04.2019

Usha Devi and others

....Appellants

versus

Tarsem Lal and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mrs. Kiran Bala Jain, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.2.

* * *

DEEPAK SIBAL, J. (Oral)

The present appeal has been preferred by the claimants seeking therein enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Ambala (for short – the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 16.01.2014, Bansilal (since deceased) was going on his motorcycle. Ravi Kumar was the pillion rider. At about 04.30 p.m., when they reached near village Sherpur, a car bearing registration No.HR-01-S-5566 (for short – the offending vehicle) hit against their motorcycle as a result of which both Bansilal and Ravi Kumar suffered multiple injuries. Bansilal was referred to PGIMER, Chandigarh where he succumbed to his injuries. The appellants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 in which petition, the Tribunal, after concluding that the accident in question causing Bansilal's

death was a result of rash and negligent driving by the driver of the offending vehicle, went on to assess the payable compensation, the enhancement of which is sought through the present appeal.

Learned counsel for the appellants submits that Bansi Lal was a painter by profession earning Rs.12,000/- per month and therefore, the Tribunal erred in assessing his monthly income to be Rs.6,000/-. It was further submitted that since at the time of his death, Bansi Lal was 35 years of age, the Tribunal erred in applying multiplier of 15 as multiplier of 16 was required to be applied. The findings of the Tribunal were further assailed for non-grant of future prospects @ 40% to the assessed income of the deceased and Rs.70,000/- under the conventional heads.

Learned counsel for respondent No.2-Insurance Company justified the compensation awarded through the impugned award.

Though PW-2 Usha Devi – widow of Bansi Lal had specifically deposed before the Tribunal that her husband was a painter by profession, she did not lead any evidence in that regard. Thus, his income can be taken to be the minimum monthly wages fixed by the State of Haryana for skilled workers at the relevant time which were Rs.6087/-.

Since the deceased was 35 years of age, as per the judgment of the Hon'ble Apex Court in **Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, multiplier of 16 to his assessed income should be applied.

Further, as per the judgment of the Hon'ble Apex Court in **National Insurance Company Limited vs. Pranay Sethi and others – (2017) 16 SCC 680**, the appellants are also held entitled to future prospects

@ 40% on the income of the deceased as assessed above as also to

Rs.70,000/- under the conventional heads.

No other point was urged.

On the enhanced amount, the appellants are also held entitled to the grant of interest @ 6.5% per annum from the date of filing of the claim petition by them before the Tribunal till the date of its realization.

The present appeal is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

April 11, 2019
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No