

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

F.A.O. No. 760 of 2010 (O&M)

DATE OF DECISION :- November 29, 2019

Smt. Sushila and others

...Appellants

Versus

Mohan Singh and others

...Respondents

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

Present:- Mr. Jitender Nara, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No. 2.

Briefly stated the facts of the case are that on account of death of Suraj Bhan, serving in Border Security Force, in a motor vehicular accident, which took place on 26.8.2008 at about 11.00 A.M., in the area of near Railway Station within jurisdiction of Police Station Jatusana, statedly on account of rash and negligent driving of Dumper bearing registration No. HR-55-F-9676 by respondent No. 1 Mohan Singh @ Monu, legal heirs/legal representatives of deceased namely his widow Smt. Sushila, aged about 38 years, minor sons Sandeep and Sudhir, aged about 16 and 13 years respectively had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Mohan Singh @ Monu-driver Rajinder Parsad-owner and Royal Sundram Alliance Insurance Co., Gurgaon-insurer of Dumper bearing registration No. HR-55-F-9676

(hereinafter referred to as the offending vehicle), claiming compensation to the tune of Rs.20 lacs.

On being put to notice, all the three respondents appeared and filed written statements contesting the claim petition. Issues on merits were framed and parties were afforded adequate opportunities to lead evidence.

On conclusion of trial, the Motor Accidents Claims Tribunal, Rewari vide Award dated 6.8.2009 accepted the claim petition and granted compensation of Rs.12,08,264/- with interest at the rate of 6% per annum from the date of filing of claim petition till actual realization. The liability to pay this amount was held to be joint and several from all the three respondents.

The claimants felt dissatisfied with the amount of compensation awarded to them by the Tribunal and have approached this Court by way of filing the appeal, notice of which was given to the respondents. However, respondent No. 3-Insurance company has put in appearance through counsel.

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

The Tribunal, on analysis of the evidence adduced before it has come to the conclusion that the accident in which Suraj Bhan had lost his life, had taken place due to rash and negligent driving of the offending vehicle by Respondent No. 1-Mohan Singh @ Monu. For the said reason, driver, owner and the Insurance Company of the vehicle were found jointly and severally liable to pay the compensation. While quantifying the compensation the Tribunal has taken age of the deceased to be more than

40 years as per entry in the post mortem report Ex.P4. Considering his salary certificate Ex.P1 reflecting his gross salary to be Rs.12,534/- per month the compensation was calculated, however, no amount was added towards future prospects. In terms of the judgment '**National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009**' when the deceased was in government service and was in the age group of 40-50 years, then increase of 30% is to be made towards future prospects. Doing that the monthly income of the deceased is worked out to be Rs.16,294.2/-(12,534 + 3760). Considering the number of dependent family members, 1/3rd of the amount is to be deducted towards personal and living expenses of the deceased. Doing that the dependency of the claimants comes out to Rs.10,862.8/- (16,294.2 – 5431.4). The annual dependency comes out to Rs.1,30,353.6/- (10,862.8 x 12).

The Tribunal had fallen in error in applying the multiplier. In terms of the judgment "**Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77**" when the deceased was in the age group of 41-45 years multiplier of 14 is to be applied. Doing that the total compensation comes out to Rs.18,24,950.4/-(1,30,353.6 x 14). The claimants are entitled to get total 70,000/- under conventional Heads in view of ratio of '**National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009**'. Making addition to that amount the total compensation amount comes out to Rs.18,94,950/-(18,24,950.4 + 70,000). The Tribunal has awarded compensation of Rs.12,08,264/-. In that way, the additional amount of compensation comes out to Rs.6,86,686/- (18,94,950 – 12,08,264), which is awarded to the claimants. I find that rate

of interest awarded is at some of the lower side, therefore, it is directed that the claimants would be entitled to get interest at the rate of 7.5% per annum on the entire amount of compensation from the date of filing of claim petition till actual realization. The Tribunal has given detailed directions with regard to apportionment of the compensation amount, and the mode and manner of payment of the same. Such directions shall apply to the additional compensation also except with a modification that Sandeep and Sudhir who are minors at the time of filing of claim petition are stated to have attained majority by now, therefore, their shares be released to them in cash instead of depositing those in some FDRs etc.

With such modification, the appeal is allowed partly.

(H.S. MADAN)
JUDGE

November 29, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No