

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.9591 of 2014 (O&M)
Date of Decision: 13.02.2019

Kamlesh Kumar

..... Appellant

Versus

Anil Singh Chahal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- None for the appellant.

Mr. Vinod Chaudhri, Advocate
for respondent No.3-Insurance Company.

ANIL KSHETARPAL, J. (ORAL)

Claimant is in appeal seeking enhancement from the compensation assessed by the Motor Accident Claims Tribunal, Fatehabad.

In a motor accident, late Smt. Kavita and her minor son-Suraj lost their lives. Two claim petitions were preferred, one by the husband and second by the husband and three other children of Smt. Kavita. Learned Motor Accident Claims Tribunal has assessed her income at Rs.3,000/- per month. It has further been found that the age of the deceased was between 35 to 40 years.

Although, learned counsel for the appellant has not chosen to appear in support of the appeal, however, learned counsel appearing for the Insurance Company has fairly assisted the Court in arriving at a conclusion. The accident took place on 21.06.2012. Learned Tribunal has not increased the income on account of future prospects as has been laid down in the judgment passed by the Constitution Bench in the case of National Insurance Company Ltd. Vs. Pranay Sethi, 2017(4) RCR (Civil), 1009. Even under

conventional head i.e. loss of estate, consortium and funeral expenses, only Rs.10,000/- has been awarded which should be Rs.70,000/- as per the judgment referred to above. Since the age of the deceased was between 35 to 40 years, therefore, increase in the income on account of future prospects is to be added by 40%.

Hence, the compensation payable is re-worked as under:-

<i>Heads</i>	<i>Compensation awarded by MACT, Fatehabad</i>	<i>Compensation awarded by High Court</i>
Income assessed	Rs.3,000/-	Rs.3,000/-
+ Future prospects	Nil	(40%) Rs.1200/- 3,000 + 1200 = Rs.4200/-
Annual dependency	3000 x 12 = Rs.36,000/-	4200 x 12 = Rs.50,400/-
Multiplier	36,000 x 15 = 5,40,000/-	50,400 x 15 = 7,56,000/-
Conventional Heads		
i) Loss of Estate	NIL	Rs.15,000/-
ii) Consortium	NIL	Rs.40,000/-
iii)Funeral expenses	Rs.10,000/-	Rs.15,000/- (Rs.70,000/-)
Total Compensation	Rs.5,50,000/-	Rs.8,26,000/-
– 50% for contributory negligence	(5,50,000 – 2,75,000) Rs.2,75,000/-	(8,26,000 – 4,13,000) Rs.4,13,000/-
Compensation already awarded by MACT	Rs.2,75,000/-	
Enhanced Compensation		(4,13,000 – 2,75,000) Rs.1,38,000/-

The enhanced compensation i.e. Rs.1,38,000/- shall be payable along with interest @ 7.5% per annum from the date of petition till realization.

The pending miscellaneous application, if any, shall stands disposed of accordingly.

Appeal allowed.

(ANIL KSHETARPAL)
JUDGE

13.02.2019
Dinesh Bansal

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No