

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

FAO No. 8188 of 2015 (O&M)  
Date of decision: 11.4.2019

Smt. Rajenderi and others

...Appellants

Versus

Joginder and others

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Ram Pal Verma, Advocate,  
for the appellants.

Mr. Navneet Singh, Advocate,  
for respondent No.1.

Mr. Satpal Dhamija, Advocate,  
for respondent No.3.

**JAISHREE THAKUR, J.**

This appeal seeks to challenge the award dated 1.5.2015 passed by the Motor Accident Claims Tribunal, Sonapat, wherein the appellants herein have been allowed compensation of ₹7,19,000/- on account of death of Virender.

In brief, the facts are that on 4.10.2014 deceased Virender, along with his son, namely Anuj, was coming from Kundli to TDI Colony, Kundli in ECO Van bearing registration No. HR-10W-6732, which started giving some trouble. Therefore, Virender stopped his vehicle by the side of the road and went back side of vehicle for inspection. In the meantime, a Santro car bearing registration No. HR-69T-9260, coming from Delhi side,

being driven by respondent No.1 in rash and negligent manner, hit him. As a result of which, Virender received grievous injuries and ultimately succumbed to the injuries on the spot. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR 292 dated 4.10.2014 registered under Sections 279 and 304-A IPC came to be lodged with the Police Station Kundli, Sonapat. With these averments, claim petition was filed by the widow, parents and the children of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was driver-cum-owner of the aforesaid ECO van and was earning ₹50,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action has accrued etc. Issues were framed and thereafter oral as well documentary evidence was led by the parties.

After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹7,19,000/-, which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the compensation amount awarded to the appellants deserves to be enhanced. It is submitted that no amount of compensation has been awarded on account of future prospects.

On the other hand, learned counsel for the respondents submits that adequate amount of compensation has been awarded by the Tribunal and as such no interference is called for in the instant appeal.

The Tribunal, after examining the evidence produced by the respective parties, held that the deceased was 51 years of age and was earning ₹6000/- per month. The Tribunal held that appellants No. 6 and 7 being married daughters were not dependent upon the deceased and as such they were not entitled to receive any compensation. The Tribunal deducted 1/4<sup>th</sup> towards personal and living expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal treating him as a manual labour has rightly taken the income of the deceased as ₹6000/- per month. In view the fact that the deceased was 57 years of age, multiplier of 11 was applied and awarded the amount of compensation, as mentioned above. However, increase in income on account of future prospects at the rate of 10% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Therefore, compensation payable to the appellants are re-worked and tabulated as under:-

| <i>Sr. No.</i> | <i>Heads</i>                                        | <i>Calculation</i>                   |
|----------------|-----------------------------------------------------|--------------------------------------|
| (i)            | Name of the deceased                                | Virender                             |
| (ii)           | Date of accident                                    | 4.10.2014                            |
| (iii)          | Age of the deceased                                 | 51 years                             |
| (iv)           | Monthly income of the deceased                      | ₹ 6,000/-                            |
| (v)            | 10% of (iv) is to be added towards future prospects | (₹ 6000+₹600)=<br>₹ 6600/- per month |

|        |                                                                   |                                     |
|--------|-------------------------------------------------------------------|-------------------------------------|
| (vi)   | 1/4 <sup>th</sup> of (v) above deducted towards personal expenses | (₹ 6600-₹1650) = ₹ 4950/- per month |
| (vii)  | Compensation calculated after applying the multiplier of 11       | (₹4950X12X11) = ₹ 6,53,400/-        |
| (viii) | Funeral expenses                                                  | ₹ 15000                             |
| (ix)   | Compensation for loss of consortium                               | ₹ 40000                             |
| (x)    | Compensation for loss of estate                                   | ₹ 15000                             |
| Total  |                                                                   | ₹7,23,400                           |

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 ₹ 7,23,400/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the instant appeal till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

11.4.2019  
prem

(JAISHREE THAKUR)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes  
No