

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

FAO No. 716 of 2016 (O&M)

Date of Decision: 29.10.2019

Davinder Kaur and others

...Appellants

Versus

Tonish Bhushan Verma and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dheeraj Narula, Advocate
for the appellants.

Mr. Sachin Ohri, Advocate
for respondent No.2—Insurance Company.

JAISHREE THAKUR, J.

CM No. 2109 CII of 2016

This is an application that has been filed for condonation of 14 days' delay in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the appeal is condoned.

CM stands disposed of.

Main case

The instant appeal has been filed challenging the award dated 1.9.2015 passed by the Motor Accidents Claims Tribunal, Patiala, on the ground that the compensation that has been awarded is wholly inadequate.

In brief, the facts are that in an accident that took place on 22.2.2014, the deceased, who was going to his house at Village Isharhail,

Post Office Balahri Kalan, Tehsil and District Fatehgarh Sahib, on his motorcycle bearing registration No. PB-23-H-6342, was struck by the offending vehicle being driven by respondent No.1—Tonish Bhushan Verma in a high speed and negligent manner. On account of the accident, Naib Singh died, which led to the filing of a claim petition before the Motor Accident Claims Tribunal, Patiala. On appreciation of the evidence, specially the eye witness Sarabjit Singh (PW1), the Tribunal held that the accident took place due to rash and negligent driving of the offending vehicle and allowed compensation to the legal representatives to the extent of ₹11,46,600/-. Aggrieved against the said compensation, the instant appeal has been filed.

I have heard learned counsel for the parties and with their assistance have perused the impugned award.

It is an admitted fact that the deceased Naib Singh was employed as a car driver with CGC Technical Campus Janjheri, Mohali and was getting salary of ₹6400/- per month as proved by Ex.PW3/B. As the Insurance Company did not produce any evidence to rebut the salary certificate, the income of the deceased was rightly taken at ₹6400/- per month at the relevant time. Since the deceased was financially supporting four dependents, the Tribunal deducted 1/4th of his salary towards his personal expenses. However, perusal of the award clearly reflects that the Tribunal has erred in not awarding anything towards future prospects of the deceased. 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 Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil)

1009. Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Naib Singh
(ii)	Date of accident	22.2.2014
(iii)	Age of the deceased	31-35 years
(iv)	Monthly income of the deceased	₹ 6400/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 6400+₹2560)= ₹ 8960/- per month
(vi)	1/4 th of (v) above deducted towards personal expenses	(₹ 8960-₹2240) = ₹ 6720/- per month
(vii)	Compensation calculated after applying the multiplier of 16	(₹6720X12X16) = ₹ 12,90,240/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹13,60,240

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 ₹ 13,60,240/- 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.

29.10.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No

