

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

FAO No. 7430 of 2016(O&M)

Date of Decision: July 24 , 2019.

Sunita and others

..... APPELLANT (s)

Versus

Rajpal and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. K.S.Dhanora, Advocate
for the appellants.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them vide by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as, the 'Tribunal') impugned award dated 19.01.2015.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') was filed by the claimants seeking compensation on account of the death of Sita Ram in a motor vehicle accident which took place on 28.04.2013. Learned Tribunal on considering the evidence on record held that the accident took place due to the rash and negligent driving of tractor No. HR-14A-5378 by respondent No.1.

Learned Tribunal concluded that the claimants failed to prove the

deceased to be working as an Electrician, earning a sum of ₹13,000/- per month as claimed. Therefore, income of the deceased was assessed by the learned Tribunal as ₹5,000/- per month. Total compensation of ₹9,53,000/- (rounded off) was awarded to the claimants, which is detailed as hereunder:-

Income	5,000 p.m.
Future prospects @ 30%	5,000+1,500 = 6,500
1/3 rd deduction	6,500 – 2,167 = 4,333
Multiplier of 14	4,333 x 12 x 14 = 7,27,944
Transportation & funeral expenses	25,000
Loss of love and affection	1,00,000
Loss of consortium	1,00,000

It is vehemently argued by learned counsel for the appellants that income of the deceased has been wrongly assessed as ₹5,000/- per month, therefore, compensation awarded by the learned Tribunal be enhanced.

Heard learned counsel for the appellants.

Learned counsel for the appellants is unable to deny that there is indeed no evidence on record to prove that the deceased was working as an Electrician receiving a salary of ₹10,000/- per month, apart from the amount earned by him everyday by working independently, from different customers. Statement of PW3 Anil Kumar, the alleged proprietor of the shop in question where the deceased was claimed to be working, is of no avail to the claimants as it is a matter of record that PW3 Anil Kumar could not even prove that he was running the shop in question. No evidence in this respect was produced before the learned Tribunal. There is further no evidence to show that the deceased was, in fact, working as an Electrician. Learned counsel for the appellants is unable to

deny that the minimum wage of a daily wager in the State of Haryana at the relevant time was not more than ₹5,000/- per month. Learned Tribunal has afforded an increment at the rate of 30% towards future prospects, even though the deceased was 43 years old at the time of the accident.

Learned counsel for the appellant is unable to point out any ground, whatsoever, for enhancement of the compensation already awarded by the learned Tribunal to the claimants, especially in terms of the judgment of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680. It is a settled position that the compensation to be awarded in a given case should not be a pittance or a bonanza, but should be just and reasonable. Learned Tribunal has awarded just and reasonable compensation in this matter.

No other argument has been raised.

In this view of the matter, I do not find any ground, whatsoever, to interfere in the impugned award dated 19.01.2015 passed by the learned Motor Accident Claims Tribunal, Gurgaon for enhancement of the compensation awarded to the claimants. There is delay of 406 days in filing of the appeal. No palpable ground is made out to condone this delay. There is no reasonable explanation coming forth in this case.

Consequently, this appeal is dismissed on account of laches and on merits.

(LISA GILL)
JUDGE

July 24 , 2019.
'om'

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No