

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

FAO No.8644 of 2015 (O&M)

Date of Decision.27.11.2019

Happu Singh and another

...Appellants

Vs

Ikramuddin and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kunal Dawar, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Vikas Chatrath, Advocate
for respondent No.3.

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JAISHREE THAKUR J. (ORAL)

1. This is an appeal that has been filed seeking to challenge the award passed by the Motor Accident Claims Tribunal dated 12.08.2015 whereby for death of a boy aged 19 years, who died in a motor vehicular accident on 03.01.2015, a compensation of ₹5,29,000/- has been assessed along with interest @7.5% per annum from the date of filing of the claim petition till final realization. In the claim petition, it was stated that the deceased had obtained appointment letter for doing the job of peon/clinic assistant with M/s Gautam Clinic Private Limited on monthly salary of ₹8000/- per month.

2. In the absence of proof of income of the deceased, the Tribunal while assessing the aforementioned compensation has assessed income of the deceased as ₹6000/- per month, made a deduction of 50% towards personal expenses and adopted a multiplier of 14 by taking into consideration age of one of his parents, who is younger in age. It further

provided a sum of ₹25,000/- towards funeral expenses.

3. Learned counsel appearing on behalf of the appellants submits that the Tribunal has failed to provide 40% increase on the income of the deceased as per the *ratio decidendi* culled out in judgment of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others (2017) 13 SCALE 12, 2017 (4) RCR (Civil) 1009** while arguing that the multiplier ought to have been determined on the basis of age of the deceased and not of one of the parents, who is younger in age. Furthermore, the Tribunal has provided a meager sum of ₹25,000/- towards conventional heads, thus, there is scope for enhancement.

4. Per contra, learned counsel appearing on behalf of the insurance company submits that the Tribunal has assessed every head of claim correctly and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal by upholding the award passed by the Tribunal. In 2015 when the accident took place, the minimum wages for a skilled worker were ₹5812/- per month.

5. I have heard learned counsel for the parties, appraised the paper book and am of the view that there is scope for enhancement, as the Tribunal did not provide an increase of 40% towards future prospects in case where the deceased was self-employed or on a fixed salary and was below the age of 40 years. This Court will take the income of the deceased as ₹5812/- per month but an increase of 40% towards future prospects on the same is required to be given. As the deceased was a bachelor, 50% deduction is allowed towards personal expenses. The multiplier of 14 applied by the Tribunal is incorrect, which ought to have been 18 based on the age of deceased and not of the parents, as per ratio culled out by Hon'ble

Supreme Court in **Pranay Sethi** (supra), apart from that ₹30,000/- is to be given towards loss of estate and funeral expenses.

7. In all, the compensation payable shall be ₹9,08,904/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of claim petition till realization. The liability shall remain the same as has already been fastened by the Tribunal upon the respondents. The enhanced amount shall be distributed equally between the appellants-claimants.

8. The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(JAISHREE THAKUR)
JUDGE

November 27, 2019

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No