

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

FAO No.7688 of 2016 (O&M)

Date of Decision.21.11.2019

Seema Rani and others

...Appellants

Vs

Ishar Ram and others

...Respondents

Present: Mr. J.S. Ghuman, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for the insurance company.

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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JAISHREE THAKUR J. (ORAL)

1. The appeal is for enhancement of compensation on account of death of one Kapil Bansal @ Kapil Kumar, who died at the age of 32 in a motor vehicular accident, that took place on 25.08.2013. The deceased along with his family members and relatives were going to Salasar Balaji in his car bearing registration No.PB-03AA-9685 when a truck trolly bearing registration No.RJ-07GA-1550, being driven rashly and negligently by respondent No.1, struck against his car, resulting into injuries, which proved fatal. A criminal case was also registered against respondent No.1.

2. The deceased was running a provisional store at Partap Nagar, Bathinda and was stated to be earning ₹20,000/- per month.

3. The Tribunal while assessing the compensation took income of the deceased as ₹1,50,000/- per annum, made a deduction of 1/4th towards personal expenses and applied multiplier of 16 to assess the loss of dependency as ₹18,00,000/-. It further provided ₹1,75,000/- towards loss of consortium, loss of love and affection, loss of estate and funeral expenses,

thus, in all, a compensation of ₹19,75,000/- was awarded along with interest

@9% per annum from the date of filing of claim petition.

4. Learned counsel appearing on behalf of the appellants would contend that the amount of compensation as assessed by the Tribunal is wholly inadequate, as the Tribunal has failed to provide future prospects in terms of judgment rendered by 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 income of the deceased has been assessed on lower side.

5. Per contra, Mr. Lalit Garg, learned counsel appearing on behalf of the insurance company submits that the Tribunal has assessed all the heads of claim sufficiently 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.

6. 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. I will retain the income as assessed by the Tribunal but will provide an increase of 40% towards future prospects on salary of deceased i.e. ₹1,50,000/- per annum and make 1/3rd deduction towards personal expenses as there is no proof that father was wholly dependent upon the deceased. The multiplier of 16 applied by the Tribunal is correct but I will provide a sum of ₹70,000/- towards consortium, loss of estate and funeral expenses as per ratio culled out by Hon'ble Supreme Court in **Pranay Sethi** (supra).

7. In all, the compensation payable shall be ₹23,10,000/-. 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 except for the period of delay in filing the appeal i.e. 159 days. The liability shall remain the same as has already been determined by the Tribunal. The enhanced amount shall be kept in a fixed deposit in the name of minor child to be payable to her on attaining majority, however, the interest accrued on the same shall be paid to the mother for meeting expenses on her education and maintenance.

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

(JAISHREE THAKUR)
JUDGE

November 21, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No