

FAO No. 835 of 2016 (O&M)

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

FAO No. 835 of 2016 (O&M)

Date of Decision: December 11, 2019

Murti Kaur and others

..... Appellants(s)

Versus

Jaswinder Singh and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Service upon respondent no.1 dispensed with
vide order dated 12.09.2018.

None for respondent no.2.

LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 30.10.2015, passed by learned Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal).

The appellants-claimants, who are the widow and two daughters of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Nachhattar Singh, due to the injuries suffered by him in the motor vehicle accident, which took place on 15.08.2014.

Learned Tribunal on considering the evidence on record concluded that Nachhattar Singh lost his life due to the injuries received by him in the accident in question, which took place on 15.08.2014, due to the rash and negligent driving of the offending Xylo car bearing registration No. PB-13-AB-7546, by its driver Jaswinder Singh-respondent no.1. Learned Tribunal while accepting the deceased to be 62 years old, as claimed, assessed his income as Rs.4,500/- per month and awarded a sum of Rs.4,66,800/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	4,500/- p.m.
	Income after increment of 15% on account of future prospects	4500+675 = Rs.5175/-
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	5175 -1725 = 3,450/- p.m.
3.	Dependency after applying multiplier of 7	3,450 x 12 x 7 = 2,89,800/-
4.	Loss of consortium to widow	1,00,000/-
5.	Loss of love and affection for family	50,000/-
6.	Medical bill	2,000/-
4.	Funeral expenses	25,000/-
	Total	Rs.4,66,800/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants while not disputing that in terms of judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, no

increment towards future prospects is to be awarded, categorically submits that income of the deceased has been wrongly assessed as Rs.4,500/- per month, which is less than even the minimum wage available to an unskilled labourer in the State of Haryana at the time of accident i.e. 15.08.2014. The deceased, it is submitted, was working as a mason and was engaged in construction work and was earning much more therefrom as well as from cultivation of about 7 acres of land.

It is noticed that none has been appearing on behalf of the respondent-insurance company. I do not find any justifiable reason to defer the hearing of this appeal of the year 2016, on this count.

I have heard learned counsel for the appellants and have gone through the certified copy of the evidence produced in Court today.

There is no dispute regarding death of Nachhattar Singh aged 62 years in the motor vehicle accident, which took place on 15.08.2014, due to the rash and negligent driving of the offending car bearing registration No. PB-13-AB-7546, by its driver Jaswinder Singh-respondent no.1. The claimants have pleaded the deceased Nachhattar Singh, aged 62 years to be a Raj Mistri (mason). It is further pleaded that the deceased was cultivating 7 acres of land. There is indeed no evidence on record to show the exact income earned by the deceased or the fact that he was cultivating 7 acres of land. However, at the same time, there is no evidence on record to negate the claim of the appellants that the deceased Nachhattar Singh was a mason. In this view of the matter, learned Tribunal has clearly erred in assessing income of the deceased to be Rs.4,500/- per month. The minimum wage of a skilled

labourer in the State of Haryana at the time of the accident i.e. on 15.08.2014 was at about 6,000/- per month. However, learned counsel for the appellants is unable to deny that even if the compensation is reworked by taking income of the deceased to be Rs.6,000/- per month, there is no scope for enhancement of the total compensation already awarded by the learned Tribunal as the increment towards future prospects cannot be awarded, the deceased being admittedly 62 years old at the time of accident. Furthermore, the amount awarded under the conventional heads would necessarily be reduced 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**. Compensation towards medical expense has already been awarded as per the bill Ex.P9. Thus, there is no scope for enhancement of the total compensation awarded by the learned Tribunal.

No other argument has been addressed.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

December 11, 2019.

Sunil

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