

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

F.A.O. No. 3336 of 2017(O&M)

Date of Decision: 17.07.2019

Malti Devi and another

.....Appellants.

Versus

Rohit Kumar and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Gobind Dhanda, Advocate
for the appellants.

None for respondent no.1.

Mr. Pavinder Singh Bedi, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J (Oral).

This appeal has been filed by the appellants-claimants, seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Panchkula, vide award dated 12.12.2016.

Claimant-widow and minor son of Manga son of Ganga, filed a petition under Section 166 of the Motor Vehicles Act (for short 'Act'), seeking compensation on account of death of Manga in the motor vehicle accident which took place on 16.01.2016. The deceased, is pleaded to be a rickshaw-puller, earning a sum of ₹25,000/- per month at the time of the accident.

Learned tribunal while holding the deceased to be 50 years old, assessed his income as ₹9320/- per month and awarded a total sum of ₹13,15,535/-, though it is mentioned as ₹13,05,535/- as the sum of ₹10,000/-

awarded on account of loss of care and guidance to claimant no.2, has not been reflected in the total amount of compensation. The detail is as under:-

1.	Total income of deceased	₹9320/- p.m.
2.	Deduction	1/ 3 rd
3.	Multiplier	13
4.	Future prospects	30%
5.	Funeral expenses, transportation and last rites etc.,	₹35,000/-
6.	Loss of consortium	₹10,000/-
7.	Loss of care and guidance	₹10,000/-
8.	Medical bill	₹471/-
	Total	₹13,15,535/-

Learned counsel for the appellants-claimants vehemently argues that the learned tribunal has grossly erred in applying a multiplier of 13 in this case as the evidence on record clearly proves that the deceased was only 41 years old at the time of accident. Reference is made to the Adhar Card of the deceased, Ex.PA and PW-1/17, wherein date of birth of the deceased is mentioned to be 01.01.1975. It is contended that the claimant-widow is an illiterate lady and she may have mentioned the deceased to be 50 years old out of ignorance. Therefore, reliance should be placed on specific documentary evidence placed on record. It is further prayed that compensation under the conventional heads is meagre and it should be enhanced.

Learned counsel for respondent no.3-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have heard learned counsel for the parties and have gone

through the record with their assistance.

Perusal of the record reveals that the claimants have specifically stated in the claim petition that the deceased-Manga was 50 years old at the time of the accident. Appellant no.1, widow has claimed herself to be 45 years old and appellant no.2 to be 16 years old at that time. Ex.PW1/A, is the affidavit dated 10.11.2016, tendered in evidence by claimant-appellant no.1. There is a specific statement of the claimant, to the effect that the deceased was aged about 50 years at the time of the accident. Moreover, as per the postmortem report, the deceased is also mentioned to be 50 years old. Learned tribunal has specifically taken note of the fact that no reliance can be placed on the copies of the Adhar Card of the deceased, wherein his date of birth is mentioned as 01.01.1975. There is no infirmity in this finding, for the reason, that the Adhar Card of claimant-respondent no.1, Ex.PB mentions her date of birth to be 01.01.1955. Ex.PC, is the voter identity card of appellant no.1, wherein her date of birth is not mentioned but her year of birth is entered as 1972. Different dates of birth have been mentioned in these documents. There is no explanation for these variations. Therefore, the learned tribunal has rightly ignored the Adhar Card of the deceased as well and placed reliance on the specific and catagoric stand of the claimants themselves. The argument that age has been wrongly mentioned by the claimant due to ignorance is indeed too farfetched to be accepted. The appellants cannot shy away from their own specific stand taken in the petition as well as the affidavit submitted by appellant no.1, by way of her evidence. Appellant-widow in her affidavit Ex.PW1/A, has declared her own age to be 45 years as on 10.11.2016 (the accident took place in January

2016), therefore plea of the deceased being 41 years old at the time of the accident is not believable and has been rightly rejected by the learned tribunal.

Learned tribunal has afforded an increment of 30% on account of future prospects whereas the claimants are entitled to an increment of 10% in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R. (Civil) 1009**. In case, compensation under the conventional heads is enhanced, the same would clearly be offset by the decrease in the said increment. The appellants are clearly not entitled to any enhancement. Learned counsel is unable to point out any ground for enhancement of the compensation already awarded to the claimants by the learned tribunal vide the impugned award dated 12.12.2016.

No other argument has been raised.

Appeal is accordingly dismissed with no order as to costs.

17.07.2019
s.khan

[LISA GILL]
Judge

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