

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

F.A.O. No. 353 of 2017

DATE OF DECISION :- July 05, 2019

Simarjit Kaur and others

...Appellants

Versus

Darshan Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Gaurav Sharma, Advocate for the appellants.

Mr. Lalit Garg, Advocate
for respondent No. 2-Insurance Company.

On account of death of Gursewak Singh, in a road side accident which took place on 28.10.2015 at about 7.40/7.45 P.M., in the area of one kilometer ahead from the over bridge of Military Cantt. Bathinda statedly on account of rash and negligent driving of Truck Trailer bearing registration No. PB-13-R/8203 by respondent No. 1 Darshan Singh, legal representatives of deceased namely his widow Simarjit Kaur, minor daughter Lovepreet Kaur, minor son Maninder Singh and mother Ranjit Kaur had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Darshan Singh-owner and driver of Truck Trailer bearing registration No. PB-13-R/8203 and National Insurance Co. Ltd, Barnala-insurer of Truck Trailer bearing registration No. PB-13-R/8203 (hereinafter referred to as the offending Truck Trailer), claiming compensation to the tune of Rs. 50 lacs.

On notice, both the respondents appeared and offered a contest. Issues on merits were framed. The parties were afforded opportunities to lead evidence.

Thereafter hearing arguments advanced by learned counsel for the parties, the Motor Accident Claims Tribunal, Barnala vide Award dated 8.7.2016 awarded compensation of Rs.11,81,000/- with interest at the rate of 9% per annum besides cost of the petition to the claimants. The manner in which the compensation amount is to be apportioned among the claimants has been mentioned in the Award. However, the claimants were not satisfied with the compensation awarded to them by the Motor Accident Claims Tribunal, Barnala and have brought the present appeal seeking enhancement of compensation of the said amount.

I have heard learned counsel for the parties besides going through the record.

The Tribunal on the basis of pleadings of the parties and considering the evidence brought on file has returned the finding that respondent No. 1 Darshan Singh was author of the accident by rash and negligent driving of the offending Truck Trailer, as such he as well as the Insurance company with which the offending vehicle was insured were liable to pay the compensation to the claimants who were legal representatives of the deceased.

The Tribunal, however, has not granted any amount of compensation towards future prospects. In terms of the judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' where age of the deceased was below 40 years an addition of 40% of the established income is to be made. Doing that the monthly

income of the deceased is worked out to be Rs.12,320/- (8800 + 3520).

The Tribunal, while taking the age of the deceased to be 39 years and his monthly income as School bus driver to be Rs.8800/- per month had deducted 1/3rd of the amount towards personal expenses of the deceased. However, the Tribunal obviously fell in error in doing so since in terms of the observations made in a land mark authority "***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77***" by the Apex Court where number of dependent family members is 4 to 6, the deduction should be 1/4th. Doing that the amount comes to Rs.3080/- (12320 x 1/4). In that way the dependency of the claimants comes out to Rs.9240/- (12320-3080). The annual dependency comes out to Rs.1,10,880/- (9240 x 12). By applying the multiplier of 15 the total compensation is worked out to Rs.16,63,200/- (1,10,880 x 15). Under the conventional Heads the Tribunal has awarded Rs.25,000/- as funeral expenses and Rs. 1 lac for loss of consortium which in view of ratio of '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' comes out to be on higher side and the claimants are entitled to get total 70,000/- under those Heads. Making addition of that amount the total compensation amount comes out to Rs.17,33,200/- (16,63,200 + 70,000). The Tribunal has awarded compensation of Rs.11,81,000/-. In that way, the enhanced amount of compensation comes out to Rs. 5,52,200/-. Accordingly, the appeal is allowed partly. The impugned award is modified and a sum of Rs. 5,52,200/- as enhanced compensation is awarded to the claimants payable by the respondents jointly and severally with interest at rate of Rs.7.5% per month from the date of filing of appeal till the actual realization. The enhanced amount shall be

apportioned among the claimants proportionately in terms of the direction already issued by the Tribunal in the impugned award. The other terms and conditions with regard to deposit of share of minor claimants shall also apply to their share in the enhanced compensation.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

July 05, 2019
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No