

FAO No.3851 of 2017

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

FAO No.3851 of 2017
Date of decision: 26.09.2019

Umedh Singh and another

.....Appellants

versus

Jagbir Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Randeep Singh, Advocate, for the appellants.
Mr. Punit Jain, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Vakalatnama on behalf of respondent No.2 – Insurance Company, filed in Court today is taken on record. Be tagged at appropriate place.

Through this appeal, appellant-claimants have sought enhancement of compensation, modifying impugned award dated 30.01.2017 of the Motor Accident Claims Tribunal, SAS Nagar, Mohali (in short 'the Tribunal'), whereby they have been awarded compensation of ₹15,83,000/- along with interest @ 6% per annum from the date of filing claim petition till realisation, on account of death of their son Sandeep Singh due to collusion of his car bearing registration No.PB-11-BU-3319 with canter driven and owned by respondent No.1, parked in the centre of the road in the day time of 03.02.2016.

Learned counsel for the appellants *inter alia* contends that the

Tribunal erred in not taking income of deceased Sandeep Singh at ₹25,000/-

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per month despite deposition of CW3 Varinder Singh, partner of deceased that they used to earn ₹50,000/- per month and divide the same in equal shares.

On the other hand, learned counsel for respondent No.2 – Insurance Company, refuting above submissions, contends that appellant-claimants have already been awarded compensation in excess to their entitlement. Therefore, appeal is liable to be dismissed.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

Admittedly, appellant-claimants, who are parents of deceased Sandeep Singh, did not produce any documentary evidence qua his income. They simply examined one Varinder Singh as CW3, who, claiming himself to be partner of deceased Sandeep Singh, testified that they were earning ₹50,000/- per month in catering business and used to divide the same equally. However, CW3 Varinder Singh did not produce any documentary evidence to show that he was a truthful witness and doing catering business with deceased Sandeep Singh in partnership. He must have produced purchase bills of grocery items and other material which are being used in catering business and the copies of orders received from their clients, engaging them as caterers. In the absence of any such cogent and convincing evidence, one line bald and uncorroborated statement of CW3 Varinder Singh that he and deceased Sandeep Singh used to earn ₹50,000/- per month has to be termed as a gospel truth. Thus, this Court is not inclined to differ with the findings of the learned Tribunal, rejecting his

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deposition and taking income of the deceased at ₹9,000/- per month.

It is pertinent to mention here that as per judgment of the Hon'ble Supreme Court in *National Insurance Company Ltd. v. Pranay Sethi and others*, 2017(4) R.C.R.(Civil) 1009, 40% of the alleged income of the deceased was to be added towards future prospects, but the Tribunal has illegally added 50% under the said head. That apart, the Tribunal has awarded ₹1,25,000/- against ₹30,000/- under the conventional heads i.e. ₹95,000/- in excess to the claimants. However, since the Insurance Company has not filed any appeal, therefore, this Court is not reducing the compensation amount despite awarded in excess to the appellant-claimants..

In view of discussion made above, appeal is dismissed.

(Ramendra Jain)
Judge

September 26, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No