

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

FAO No. 414 of 2017 (O&M)
Date of decision: 13.11.2019

Dharamjeet Kaur and another

...Appellants

Versus

Punjab Roadways and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. A.K. Spehia, Advocate,
for the appellants.

Mr. Karanbir Singh, AAG, Punjab.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 9.3.2016 passed by the Motor Accident Claims Tribunal, Hoshiarpur, wherein the appellants herein have been allowed compensation of ₹7,41,400/- on account of death of Jaswinder Kumar alias Shinda.

2. In brief, the facts are that on 14.10.2014, the deceased Jaswinder Kumar, along with one Balwinder Singh, was going from his village Darapur to Peer Nigaha on a motorcycle, bearing registration No. PB-07-Z-3473. When they reached near Village Bankhadi on Tanda—Una Road, they were hit by a bus bearing registration No. PB-12-H-2554, being driven by respondent No.3 in rash and negligent manner, as a result of which, both of them fell down and suffered grievous injuries on their bodies.

They were taken to Civil Hospital, where Jaswinder Kumar was declared

“brought dead”. The matter was reported to the police and consequently FIR No. 145 dated 14.10.2014 under Sections 279, 337, 427, 304-A IPC came to be lodged with the Police Station Sadar, Hoshiarpur. A claim petition was filed by the mother and brother of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was a tailor and was earning ₹12,000/- per month.

3. The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the claim petition was bad for non-joinder of necessary parties, the claimants have concealed the material facts etc. Issues were framed and thereafter evidence was led by the parties in order to substantiate their respective claims.

4. After scrutiny of the evidence brought on record, the Tribunal held that the accident was the result of rash and negligent driving of respondent No. 3 and on assessment of the facts and evidence produced before it allowed compensation of ₹7,41,400/-, which has been now challenged in the instant appeal.

5. Learned counsel for the appellants contends that the amount of compensation awarded by the Tribunal is on the lower side and as such the same deserves to be enhanced. It is submitted that though the deceased was a tailor and was earning ₹12,000/- per month, still the Tribunal treating him as a unskilled labour assessed his monthly income as ₹5700/-. It is submitted that even if the deceased was to be treated as a unskilled labour, the monthly income ought to have been assessed at ₹6661/- as per the minimum rates of wages prevalent in the State of Punjab at the relevant time. It is also

submitted that the multiplier of 17 ought to have been applied instead of 16 as the deceased was 27 years of old. It is further submitted that increase 40% towards future prospects ought to have been given instead of 30%, as per law laid down in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.**

6. On the other hand learned counsel appearing on behalf of the respondent—State submits that adequate amount of compensation has been awarded by the Tribunal and as such no interference is called for in the appeal by this Court.

7. Admittedly, the appellants were not able to prove that the deceased was a tailor and was earning ₹12,000/- per month. However, as per the minimum rates of wages prevalent in the State of Punjab at the relevant time, the income of the deceased is assessed at ₹6661/- per month. Furthermore, since the appellants were able to prove that the deceased 27 years old, therefore, the multiplier of 17 ought to have been applied in terms of the judgment rendered in **Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 SCC 121.** Apart from that, increase in income on account of future prospects at the rate of 40% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **Pranay Sethi's case (Supra).** Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Jaswinder Kumar
(ii)	Date of accident	14.10.2014

(iii)	Age of the deceased	27 years
(iv)	Monthly income of the deceased	₹ 6661/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 6661+₹2665)= ₹ 9326/- per month
(vi)	1/2 of (v) above deducted towards personal expenses	(₹ 9326-₹4663) = ₹ 4663/- per month
(vii)	Compensation calculated after applying the multiplier of 17	(₹4663X12X17) = ₹ 9,51,252/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹ 10,21,252

8. As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the appellants shall be ₹ 10,21,252/- and the amount in excess over what was awarded will also attract interest @7.5% per annum from the date of the appeal till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

13.11.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No