

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

**F.A.O. No. 419 of 2017**

**DATE OF DECISION :- July 05, 2019**

**Priya Rani 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.

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On account of death of Shamsher 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 Priya Rani, minor daughter Jasnoor Kaur, Chand Singh, father of deceased and mother Manjit 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.10,77,000/- 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 have 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.

While assessing the compensation, the Tribunal had taken the age of the deceased to be 27 years and his monthly income to be Rs.7,000/- per month. However, no addition on account of future prospects was made. 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.9800/- (7000 + 2800).

The Tribunal has deducted 1/3<sup>rd</sup> of the amount towards personal expenses of the deceased. Doing that the amount comes out to Rs.3267/- (9800 x 1/3). I do not see any reason to differ with the Tribunal on that point. In that way the dependency of the claimants comes out to Rs.6533/- (9800 – 3267). The annual dependency comes out to Rs.78,396/- (6533 x 12). By applying the multiplier of 17 in terms of guidelines laid down in “***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77***” the total compensation is worked out to Rs.13,32,732/- (78,396 x 17). 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 to that amount the total compensation amount comes out to Rs.14,02,732/- (13,32,732 + 70,000). The Tribunal has awarded a compensation of Rs.10,77,000/-. In that way, the enhanced amount of compensation comes out to Rs.3,25,732/-. Accordingly, the appeal is allowed partly. The impugned award is modified and a sum of Rs.3,25,732/- 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 claimant shall also apply to her 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