

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

FAO No. 434 of 2017 (O&M)

Date of Decision: 26.2.2019

Smt. Chander Kala and others

...Appellants

Versus

Manoj Kumar and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Chanderhas Yadav, Advocate
for the appellants.

JAISHREE THAKUR, J.

1. The instant appeal has been preferred by the claimants/appellants for enhancement of compensation granted to them by the Motor Accidents Claims Tribunal on account of death of Naresh Kumar.

2. In brief, the facts are that on 2.10.2015 Naresh Kumar deceased was driving his motorcycle bearing HR 35-B-5269 at a moderate speed and was going to attend his duties, when he was struck by a truck which was being driven by respondent No.1 in rash and negligent manner without observing the traffic rules. A criminal case being FIR No. 271 dated 2.10.2015 under Section 279 and 304-A IPC was registered regarding the accident in Police Station Sadar Narnaul. On account of the accident, Naresh Kumar suffered serious and grievous injuries on his body and consequently succumbed to his injuries.

3. A claim petition was filed by the legal representatives of Naresh Kumar, who claimed compensation of ₹60,00,000/-. It was contended that

the deceased was 36 years old and he was employed as driver under National Health Mission, Narnaul and was getting salary of ₹9298/- per month and in his spare time he used to do agricultural and dairy work and earn an amount of ₹20,000/- per month over and above his salary.

4. The claim petition was contested by the insurance company as well as the registered owner of the offending vehicle and the driver of the said truck. Issues were framed and thereafter while relying on the judgments rendered in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77** and **Rajesh and others Versus Rajbir Singh and others 2013 ACJ 1403**, total compensation of ₹14,79,960/- was awarded to the claimants on account of death of Naresh Kumar, which was to be paid jointly and severally by the respondents in the claim petition from the date of the petition till the payment. However, it was observed that amount of ₹6,27,480/- which had been calculated towards loss of future prospects of income would be subject to the outcome of the decision of the larger Bench by the Supreme Court.

5. Learned counsel appearing on behalf of the appellants vehemently contends that the amount of compensation that has been awarded is on the lower side, while contending that the appellants are entitled to the compensation as claimed.

6. I have heard learned counsel for the appellants and with his assistance has perused the impugned award.

7. The deceased at the time of his death was 36 years old with an income of ₹9298/-. Since there was no evidence available on the record to show that he was earning additional amount of ₹20,000/- per month from

milk vending and agriculture, the Tribunal rightly did not take the additional income as alleged into account. A multiplier of 15 was applied and 1/4th of the amount was deducted towards personal expenditure of the deceased, which is in consonance with the law laid down in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Since there is no dispute to the age and income of the deceased, the Tribunal has rightly awarded the compensation after following the law laid down by the Supreme Court. There is no scope for enhancement of compensation.

8. Consequently, the appeal is dismissed.

26.2.2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No