

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

FAO No. 2610 of 2018 (O&M)

Date of decision : December 18, 2019

Anju Bala

Versus

.....Appellant

Joginder Pal and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellant.

Mr. Pradeep Kumar, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimant for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as the 'Tribunal') on account of death of Partap Singh vide award dated 24.10.2017.

Brief facts necessary for adjudication of the case are that the appellant/claimant i.e. widow of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Partap Singh on 27.10.2016, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. JCB bearing registration No. PB-06-M-2989, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Partap Singh died in the accident which took place on 27.10.2016 due to rash and negligent driving of the offending JCB bearing registration No. PB-06-M-2989 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹6,000/- per

month awarded a sum of ₹7,49,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected. Multiplier of 13 was applied. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimant has filed this appeal.

Learned counsel for the appellant submits that income of the deceased has been wrongly assessed as even the minimum wage in the State of Punjab of an unskilled labourer was much more. Increment towards future prospects, it is submitted, be also awarded though it is fairly stated that the compensation under the conventional heads be re-worked in terms of judgments of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009** and **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333.**

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 24.10.2017 be upheld.

I have heard learned counsel for the appellant as well as respondent No. 3 and have gone through the available file.

There is no dispute that Partap Singh lost his life due to injuries

received by him in a motor vehicle accident, which took place on 27.10.2016 due to the rash and negligent driving of JCB bearing registration No. PB-06-M-2989, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 47 years old at the time of the accident. He is claimed to be working as a labourer with the Contractor earning a sum of ₹15,000/- per month. Learned counsel for the appellant is unable to deny that there is no evidence on record to indicate the exact income of the deceased. However, at the same time, it is noticed that the minimum wage in the State of Punjab at the time of the accident i.e. 27.10.2016 was ₹7458.56 per month. Thus, income of the deceased is assessed as ₹7500/- per month instead of ₹6000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increment on account of future prospects at the rate of 25% (₹1875/-) is afforded, as the deceased was 47 years old at the time of accident, which takes income of the deceased to ₹9375/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3rd is to be applied, thereby rendering income of the deceased to be ₹6250/-(9375-3125). Applying a multiplier of 13, dependancy of the claimant is assessed as ₹9,75,000/- (₹6250x12x13). The claimant is also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/-) and loss of estate. The claimant widow is entitled to ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium. Claimant is, thus, entitled to total compensation of ₹10,45,000/- detailed as under:-

Loss of dependency (₹6250x12x13)	₹9,75,000/-
Loss of spousal consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹10,45,000/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant is entitled to interest at the rate of 7.5% per annum on the entire amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

December 18, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No