

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

FAO No. 3117 of 2018 (O&M)
Date of Decision: 17.10.2019

Nancy and others

...Appellants

Versus

Sushil Kumar and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dheeraj Narula, Advocate
for the appellants.

Mr. Rohit Kaushik, Advocate for
Mr. Keshav Pratap Singh, Advocate,
for respondent No.1.

Mr. Amit Kundra, Advocate,
for respondents No.4.

JAISHREE THAKUR, J.

The instant appeal has been filed challenging the award dated 4.9.2017 passed by the Motor Accidents Claims Tribunal, Sirsa, on the ground that the compensation that has been awarded is wholly inadequate.

In brief, the facts are that in an accident that took place on 8.4.2015, when the deceased Harshdeep, Gurpreet Singh and others were travelling in a car bearing registration No. HR-24Q-0900, was struck by the offending vehicle being driven by respondent No.1—Sushil Kumar in a high speed and negligent manner. On account of the accident, Harshdeep died, which led to the filing of a claim petition before the Motor Accident

Claims Tribunal, Sirsa. On appreciation of the evidence, specially the eye witness who was also travelling in the car and suffered injuries, the Tribunal allowed compensation to the legal representatives of Harshdeep to the extent of ₹14,24,312/-. Aggrieved against the said compensation, the instant appeal has been filed.

I have heard learned counsel for the parties and with their assistance have perused the impugned award.

No appeal has been filed either by the owner of the offending vehicle, driver or the insurance company, therefore, the only question that remains for adjudication is, whether adequate compensation has been allowed to the claimants on account of the death of Harshdeep. It is an admitted fact that the deceased Harshdeep was working as a Medical Consultant and was getting total salary of ₹9,649/- per month as proved by Ex. PW6/B and was getting ₹8,700/- per month after deduction. As the Insurance Company did not produce any evidence to rebut the salary certificate, the income of the deceased was taken at ₹9,649/- per month at the relevant time. Since the deceased was financially supporting three dependents, the Tribunal deducted 1/3rd of his salary towards his personal expenses. However, perusal of the award clearly reflects that the Tribunal has erred in not awarding anything towards future prospects of the deceased. Therefore, 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 **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.**

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	Harshdeep
(ii)	Date of accident	8.4.2015
(iii)	Age of the deceased	25 years
(iv)	Monthly income of the deceased	₹ 9649/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 9649+₹3859)= ₹ 13,508/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 13,508-₹4503) = ₹ 9005/- per month
(vii)	Compensation calculated after applying the multiplier of 18	(₹9005X12X18) = ₹ 11,19,360/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹20,15,238

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 claimants shall be ₹ 20,15,238/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the petition till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

17.10.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No