IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Cross-Objection No. 69 of 2019
in FAO No. 3767 of 2018 (O&M)

Date of Decision: 25.09.2019

Suman Devi

...... Appellant

Versus

Ajit Singh and others

..... Respondents

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CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Rohit Mittal, Advocate,
for the appellant.

Mr. Siddharth Gulati, Advocate,
for respondents No.1 & 2.

Mr. Sanjeev Kodan, Advocate,
for respondent No.3 Insurance Company/Cross-Objector.

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JAISHREE THAKUR, J.

1. By this common order this Court proposes to dispose of the first appeal filed by the claimant Suman Devi seeking enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') as well as the Cross-objections filed by the Insurance Company.

2. In brief, the facts are that Rohit son of Raj Kumar was riding on a motorcycle, which was being driven by Sumer Singh on 14.04.2016 and were enroute from village Hamidpur to Narnaul. At

about 7.30 p.m., when they reached near the Police Post Gahali, they were hit by a tractor bearing No. HR-35G-6118 being driven by respondent No.1, the driver Ajit Singh. As a result of the accident, Sumer Singh came beneath the tractor, whereas Rohit fell far away on the other side of the road. This accident was witnessed by Prem Lata wife of Daulat Ram, r/o village Hamidpur and Rohit son of Raj Kumar of the same village. FIR No. 99 dated 15.04.2016 under Sections 279, 337, 304-A IPC was got registered at Police Station Sadar Narnaul. On account of death of Sumer Singh aged 24 years, a claim petition was filed, which was contested by the respondents.

3. Respondent Nos.1 & 2, Driver and owner of the offending vehicle, denied the factum of the accident and respondent No.3, the Insurance Company pleaded that respondent No.1 was not holding a valid and effective driving licence and, therefore, he had violated the terms & conditions of the Policy. All the three respondents prayed for dismissal of the claim petition.

4. The Tribunal framed issues and parties were called upon to lead their evidence in support of their respective claims. The claimant examined Dr. Yogesh Kumar as PW-1 and examined herself as PW-2, Vivek Sharma, Criminal Ahlmad as PW-3 and Prem Lata as PW-4. Evidence of respondents No.1 & 2 was closed after they had tendered their documents. The Tribunal allowed the claim petition on appreciation of the evidence. Respondent No.1 Ajit Singh did not step into the witness box in order to deny the accident or negligence

on his part and, therefore, adverse inference was drawn against him.

5. Based on the evidence of the eye witness, who tendered her affidavit Ex. PW4/A, the Tribunal allowed the claim petition. The stand of the claimant that the deceased was Electrician and Plumber and used to earn ₹ 25,000/- per month, was disregarded on the ground that other than the oral evidence there was no documentary proof available that the deceased used to earn ₹ 25,000/- per month as an Electrician/Plumber. Therefore, based upon the minimum wages as applicable for the State of Punjab held that the income of the deceased could be taken as ₹ 9,880/- applying the multiplier as laid down by the Hon'ble Supreme Court in ***Smt. Sarla Verma vs. Delhi Transport Corporation (SC) 2009(3) RCR (Civil) 77***, the deduction allowed was ½ since the deceased was a bachelor and a multiplier of 15 was taken into consideration based on the age of the mother. Aggrieved against the inadequate compensation, the appeal has been filed stating therein that the income has not been computed in terms of the judgment in ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009***, whereas, on the other hand, Cross-Objections have been filed by the Insurance Company on the ground that the Tribunal has erred in taking the income of the deceased at ₹ 9,880/- on the basis of the Punjab government Letter No. 7084-F-41/6075 (Finance Deptt.), dated 21.11.1941 for an accident that took place in the year 2016, whereas it should have been taken on the basis of the Minimum Wages

prevalent in the State of Haryana. It is also submitted that the Tribunal awarded a sum of ₹ 50,000/- on account of love and affection and ₹ 25,000/- for transportation, funeral and last rites expenses, which is not in consonance with the judgment of the Supreme Court in ***Pranay Sethi and others*** case (supra) and, therefore, prays for a reduction of the amount so awarded.

6. I have heard learned counsel for the parties and with their assistance have also perused the pleadings of the case and the evidence led before the Tribunal along with the Cross-Objections filed.

7. The claimants appellant herein is aggrieved against the inadequate compensation awarded, whereas the Insurance Company-respondent No.3 not denying the factum of the accident has challenged the award primarily on the question of quantum i.e. on the ground that the income of the deceased is based on the letter issued by the Punjab Government which would not be applicable in the instant case as the accident took place in the State of Haryana. Admittedly, deceased was bachelor, aged 24 years and there is no income proof on the record to support the contention that he was earning ₹ 25,000/- per month. The Tribunal has erred in holding that the income of the deceased would be based upon the instructions contained in the composite Punjab Govt. Letter No. 7084-F-41/6075 (Finance Deptt.) dated 21.11.1941, whereas in fact his income would be based upon the minimum wages as applicable in the State of

Haryana on the date the accident took place, therefore, the income ought to have been assessed at ₹ 8,000/- per month. Admittedly, the Tribunal has not awarded future prospects or applied the correct multiplier and, therefore, the compensation as assessed needs to be re-calculated, which has been done as under :-

Sr. No.	Heads of claim	*Calculation*
1	Name of the deceased	Sumer Singh
2	Date of accident	14.04.2016
3	Age of the deceased	25 years
4	Monthly income of the deceased	₹ 8,000/- per month
5	40% of (iv) is to be added towards future prospects	(₹8,000 + ₹3200) =₹11200/-
6	1/2 of (v) above to be deducted towards personal expenses	(₹11200- ₹ 5600) =₹ 5600/-
7	Compensation calculated after applying the multiplier of 18	₹ 5600 x 18 x12= ₹12,09,600/-
8	Funeral expenses+Loss of estate @ 15000/- each	30,000/-
9	Total : (7+8)	₹12,39,600/-

8. In view of the above, while allowing the appeal and partly allowing the cross-objections on the question of income, both these are disposed of while enhancing the compensation from ₹ 7,27,080/- to ₹ 12,39,600/-.

9. The Insurance Company is directed to release the enhanced compensation in favour of the claimant-appellants with interest @ 7.5% per annum from the date of filing of the petition till realization in terms of the judgment rendered by the Supreme Court in

Dara Singh @ Dhara Banjara vs. Shyam Singh Varma & Ors., Civil Appeal No. 4528 of 2019 [SLP(C) No. 5720 of 2019] decided on 01.05.2019.

25.09.2019 **(JAISHREE THAKUR)**
Satyawan **JUDGE**

Whether speaking/reasoned Yes.

Whether reportable No.