

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

FAO-4216-2018 (O&M)

Date of Decision: July 10, 2019

Smt. Manju and others

Appellants

Versus

Sanjay Kumar and another

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashwani Arora, Advocate
for the appellants.

None for respondent No.1.

Mr. Sukhdarshan Singh, Advocate
for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

This appeal seeks to challenge award dated 02.02.2018 passed by the Motor Accident Claims Tribunal, Chandigarh, wherein the appellants herein have been allowed compensation of ₹14,14,000/- on account of death of Manu Kumar alias Monu.

In brief, the facts are that on 01.07.2017 at about 3.00 a.m., deceased Manu Kumar alias Monu was going from his village Babyal to village Dukheri while sitting on the pillion seat of motorcycle bearing registration No. HR-01-AQ-3181, which was being driven by Sanjay Kumar, respondent No. 1 herein in a rash and negligent manner. They were also followed by one Omveer Singh, a relative of Manu Kumar. When they

crossed Petrol Depot, Ambala Cantt., in front of Police Post, their motor cycle went out of control due to fast speed and struck against a stray animal. Both fell on road and Monu Kumar received severe head injury, which led to his death in the hospital on 02.07.2017. It was alleged that the accident took place solely due to the rash and negligent driving of respondent No.1 as stated by eye witness-Omveer Singh. With these averments, claim petition was filed by the widow and the children of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working as a Recovery Agent and was earning ₹15,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no FIR was lodged and that the accident did not take place due to alleged rash and negligent driving of respondent No.1 rather it occurred due to appearance of stray animal on the road. Issues were framed and thereafter evidence was led by the parties. In order to substantiate the claim, appellant No.1 stepped into the witness box as PW1 and produced Ex. P1 to P8 and also tendered documents. On the other hand, no oral evidence was led by the respondents but they tendered documents Ex. R1 to Ex. R3 in evidence.

After scrutiny of the evidence brought on record, the Tribunal held that the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹14,14,000/- which has been sought to be enhanced in the instant appeal.

I have heard learned counsel for the parties and gone through

the pleadings of the case.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 37 years of age and was earning ₹8000/- per month. The Tribunal deducted 1/3rd towards personal expenses of the deceased, which is not correct as it should have been taken as 1/4th as the dependents are four in number. However, in the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly taken the income of the deceased as ₹8000/- per month. Similarly the Tribunal while taking the age of the deceased as 37 years rightly applied the multiplier of 15. However, 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** and **Vimla Devi vs. National Insurance Company Ltd. 2019(1) RCR (Civil) 86**. Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Manu Kumar alias Monu
2	Date of accident	01/07/17
3	Age of the deceased	37 years
4	Monthly income of the deceased	8000/- per month
5	40% of (iv) is to be added towards future prospects	(8000+3200) =11,200/-
6	1/4 th of (v) above deducted towards personal expenses	(11,200-2800) =8400/-

Sr. No.	Heads of claim	Calculation
7	Compensation calculated after applying the multiplier of 15	8400x15x12=15,12,000/-
8	Conventional heads	1,30,000/-
9	Total : (7+8)	16,42,000/-

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 ₹16,42,000/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of filing of the appeal in this Court till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

July 10, 2019
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No