

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

FAO No. 7853 of 2017 (O&M)

Date of Decision: 11.12.2019

Hemlata and others

...Appellants

Versus

General Manager Haryana Roadways and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. Pramjeet Singh, AAG, Haryana.

Mr. Dharam Pal, Advocate, for
Mr. Vivek Khatri, Advocate,
for respondent No.2.

Mr. Sahej Mahajan, Advocate, for
Mr. Ashwani Talwar, Advocate
for respondents No.3.

JAISHREE THAKUR, J.

1. The instant appeal has been filed seeking to challenge the award dated 4.7.2017 passed by the Motor Accident Claims Tribunal, Chandigarh, on the ground that the compensation as awarded is inadequate.

2. In brief, the facts are that the claimants filed a claim petition under Section 166 of the Motor Vehicles Act for grant of compensation on account of death of Sushma Devi. The claim petition was filed by the children of the deceased. It was submitted that on 10.8.2016, the deceased was coming from Delhi to Chandigarh, while travelling in the Haryana

Roadways Bus bearing registration No. HR550T-6358, being driven by respondent No.2 in rash and negligent manner. After crossing Hallo Maja Light Point, the bus was stopped at Local Bus Stop, when the driver suddenly applied the brakes, due to which the deceased, who was standing near the door to alight from the bus, lost her balance and fell down on the road and sustained multiple injuries. She was shifted to Government Medical College & Hospital, Sector 32, Chandigarh, from where she was referred to PGI, where she breathed her last on 13.8.2016. Consequently, an FIR was lodged against the driver of the Bus.

3. The claim petition was contested by the respondents. It was alleged that the accident in question took place due to own negligence of the deceased as she was de-boarding the bus while the bus was in motion. Respondent No. 3—Insurance Company denied the factum of the accident. Thereafter, issues were framed and evidence was adduced. The Tribunal after analyzing the evidence held that Sushma Devi, the deceased died due to the rash and negligent driving of Bus No. HR55-T-6358. The Tribunal, on further appreciation of the evidence held that claimants/appellants No. 1 and 2 being not dependent on the deceased were not entitled to seek compensation. However, it allowed total amount of compensation to the extent of ₹8,09,180/- to the claimants/appellants No.3 and 4, taking the income of the deceased as ₹5,000/- being a house-wife. A multiplier of 13 was applied, while allowing a further amount of ₹25,000/- towards transportation, funeral and last rites. Further a sum of ₹4,180/- were awarded towards medical expenses. Aggrieved against the said compensation, the instant appeal has been filed.

4. Ms. Priya Deep, learned counsel appearing for the appellants, would contend that the amount of compensation is wholly inadequate as the Tribunal has erred in assessing the income of the deceased only a sum of ₹5,000/- per month. In fact, she argues that the accident took place in the year 2016 and that this Court in a judgment rendered in '**United India Insurance Company Limited vs. Sube Singh and Others**' in FAO-218-2014 decided on 15.01.2014 had taken the income of a housewife to be ₹9,000/-. It is further argued that the amount of compensation as assessed under the conventional heads and future prospects have not been allowed properly assessed as has been allowed in a judgment titled as **National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**, which is a judgment rendered by the Constitutional Bench.

5. On the other hand learned counsel appearing on behalf of the respondents submit that adequate amount of compensation has been awarded by the Tribunal and as such no interference is called for in the appeal by this Court. Rather, it is submitted that no deduction towards personal and living expenses of the deceased has been made by the Tribunal from the income so assessed. In fact, 1/3rd ought to have been deducted towards personal and living expenses.

6. I have heard the learned counsels for the parties and found that the impugned award passed by the Tribunal needs to be modified to the extent that the claimants would also be entitled for the enhanced income of the deceased i.e. ₹9000/- per month instead of ₹5000/- as allowed by the Coordinate Bench in '**United India Insurance Company Limited vs. Sube Singh and Others**' in FAO-218-2014 decided on 15.01.2014. The role of a

housewife can not be diminished. Apart from being a home maker, she also performs multifarious tasks for which she is not paid. Insofar as deduction of 1/3rd is concerned, this Court in **FAO No. 3310 of 2012 titled Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others decided on 16.5.2013**, held that while calculating the notional income of a housewife, the entire income should be taken as dependency of the legal heirs without applying any cut much-less 1/3rd as has been done in certain cases. Therefore, in view of the judgment of the Supreme Court in *Pranay Sethi's case (supra)*, the compensation as payable to the appellants is reworked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Sushma Devi
(ii)	Date of accident	10.8.2016
(iii)	Age of the deceased	46 years
(iv)	Notional income of the deceased housewife.	₹ 9,000/- per month
(v)	Compensation calculated after applying the multiplier of 13	(₹ 9000X12X13) = ₹ 14,04,000/-
(vi)	Funeral expenses	₹ 15000
(vii)	Compensation for loss of consortium	₹ 40000
(viii)	Medical Expenses	₹ 4,180
Total		₹14,63,180

7. 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/appellants No. 3 and 4 shall be ₹14,63,180/- and the amount in excess and over what was awarded will also attract interest @7.5% from the date of filing of the petition till the date of payment. The

claimants will share the amount of compensation as per the award of the Tribunal.

11.12.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No