

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

CM-18757-CII-2018 in/and

FAO-5540-2018 (O&M)

Date of Decision: December 11, 2019

Anita Batra

Appellant

Versus

Dharmender Saini and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S.K. Tripathi, Advocate
for the appellant.

Mr. Punit Jain, Advocate
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

CM-18757-CII-2018

For the reasons mentioned in the application, the same is allowed and the delay of 94 days in filing of the appeal is hereby condoned.

Main case

This appeal seeks to challenge the award dated 02.01.2018 passed by the Motor Accident Claims Tribunal, Faridabad, wherein the appellants herein have been allowed compensation of ₹7,10,200/- on account of death of Vinod Singh Batra son of the appellant.

In brief, the facts are that on 14.02.2017 at about 2.15 p.m., Vinod Singh Batra along with his friend Vidit Khanna was going to Surajkund on his scooty bearing registration number HR-51-AU-6674. Nishant Bhatia was following them on his motorcycle bearing No. DL-8S-

BD-5995. Vinod Singh Batra was driving the scooty while Vidit Khanna was the pillion rider. When they reached near Sector 21-B/D dividing road, Surajkund Road, Faridabad, offending vehicle i.e. Eicher 11.10 bearing registration No. HR-38P-9496 came from the opposite side being driven by respondent No.1 at high speed in zigzag manner and hit against their scooty. Due to the impact, both sustained multiple injuries. Vinod Singh Batra succumbed to his injuries. 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- Nishant Bhatia. On the statement of Nishant Bhatia, the police registered an FIR No.49 dated 14.02.2017 under Sections 279//337/304-A of the IPC in Police Station NIT, Faridabad. With these averments, a claim petition was filed by the parents of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was 21 years old, was doing the business of sale purchase of used vehicles and earning a sum of ₹20000/- per month and claimed a compensation of ₹80 lakhs.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable and that the accident did not take place due to alleged rash and negligent driving of respondent No.1 rather the victims were themselves responsible for this accident. Issues were framed and thereafter evidence was led by the parties.

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 ₹7,10,200/- along with interest 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 21 years of age. With regard to the actual income of the deceased, the Tribunal has wrongly taken the income of the deceased as ₹6000/- per month, whereas as per minimum wages of the year 2017 should be ₹ 8070/- . 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**. Keeping in view that the deceased was unmarried, the dependency @ 1/2 should have to be made on his income for personal expenses. Therefore, compensation payable is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Vinod Singh Batra
2	Date of accident	14/02/2017
3	Age of the deceased	21 years
4	Monthly income of the deceased	8070 per month
5	40% of (iv) is to be added towards future prospects	(8070+3228)=11298/-
6	1/3 rd of (v) above deducted towards personal expenses	(11298-5649)=5649/-
7	Compensation calculated after applying the multiplier of 18	5649x12x18=1220184/-
8	Conventional heads	30,000/-
9	Total : (7+8)	₹12,50,184/-

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable is assessed at ₹12,50,184/-. The amount in excess over and above what was awarded will also attract interest @7.5% per annum from the date of filing of the appeal in this Court till the date of payment.

December 11, 2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No