

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

224

FAO-8410-2017 (O&M)

Date of Decision: 17.10.2019

AKBARI AND ORS

....APPELLANTS

Versus

MANRAJ SINGH AND ORS

...RESPONDENTS

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Yogesh Gupta, Advocate for the appellants.

Mr. Talwinder Singh, Advocate for respondent Nos.1 and 2.

Mr. S.S. Sidhu, Advocate for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

This appeal has been filed to challenge the award dated 05.04.2017 passed by the Motor Accident Claims Tribunal, Mohali, wherein the appellants have been allowed compensation of ₹14,21,000/- on account of death of Zameel Ahmad in a motor vehicular accident.

In brief, the facts are that an accident took place on 22.05.2016 at about 4.00 PM, when Zameel Ahmad was going on the main road from village Bhago Majra to Kharar, which resulted in death of Zameel Ahmad. FIR bearing no. 66 dated 22.5.2016, u/s 279, 427, 304-A IPC, P.S. Kharar, was also got registered qua the accident in question.

In the claim petition, it was averred that a car bearing registration No. PB-23M-7631 came from behind at a fast speed and in a rash and negligent manner, without blowing any horn and struck into Zameel Ahmad, which resulted in death of deceased-Zameel Ahmad. It was further averred that the deceased was

35 years of age at the time of accident and was earning income from selling vegetables after taking agricultural land on lease.

The learned Tribunal, on appreciation of the evidence, held that the deceased was earning ₹6,000/- per month and thereafter adding 50% towards future prospects and after computing the income and applying the necessary multiplier awarded a sum of ₹12,96,000/- towards loss and dependency and further allowed sum of ₹1,00,000/- towards solatium and an additional amount of ₹25,000/- towards funeral expenses has also been awarded. Thus, the total amount of ₹14,21,000/- was awarded to the claimants. Aggrieved against the amount of compensation, the appeal has been filed by the appellants.

I have heard learned counsel for the parties and gone through the pleadings of the case as well as the impugned award.

Learned counsel for the appellants strongly urges that there is evidence available on record that the deceased was earning an income from selling vegetables by relying upon a statement given by Major Singh (PW-3), who had stated that he had leased out his land to the deceased. It is argued that his income ought to have been taken ₹9,000/- per month, treating him to be a semi-skilled worker and by applying the minimum wages as applicable in the month of May-2016, the date when the accident in question took place. It is also argued that the dependency has wrongly been calculated.

Learned counsel appearing on behalf of respondent No. 3- Insurance Company submits that the learned Tribunal on appreciation of the evidence has correctly allowed an amount of Rs. 12,96,000/- towards dependency, however, has erred in allowing an excess amount of compensation under the conventional heads.

It is submitted that the same is not in consonance with the judgment rendered incase of **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.**

Since neither the Insurance Company nor the Driver of the offending vehicle had challenged the said award, therefore, the only question that survives for determination is, whether the quantum of compensation as allowed by the learned Tribunal is sufficient. The arguments raised by the learned counsel for the appellant, that the deceased ought to be taken to be a semi-skilled worker is not sustainable as there is nothing on record to substantiate the claim that the deceased was an agriculturist and had taken land on lease from Major Singh (PW-3). Major Singh in his cross-examination had stated that it was an oral agreement by which the land had been given on chakota to the deceased. He did not have any receipt qua the same nor had reflected the said income in his income tax return, which he was filing. Therefore, there can be no infirmity with the finding. There is no basis for this Court to ascertain that the deceased was a semi-skilled worker at the relevant time, however, the learned Tribunal has erred in holding the earnings of the deceased to be ₹6,000/- per month, whereas as per the minimum wages applicable for the month of May-2016, the date when the accident took place, the minimum wages as applicable were ₹7,600/- per month, therefore, in the opinion of the Court the amount of compensation be awarded to the claimants on account of the death of Zameel Ahmad needs to be re-assessed as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Zameel Ahmad
2	Date of accident	22.05.2016
3	Age of the deceased	35 years

Sr. No.	Heads of claim	Calculation
4	Monthly income of the deceased	₹7600/-per month
5	40% of (iv) is to be added towards future prospects	(7600+3,040) =₹10,640/-
6	1/4 th of (v) above deducted towards personal expenses	(10,640-2660) =₹7980/-
7	Compensation calculated after applying the multiplier of 16	(7980 x 12 x 16) = ₹15,32,160/-
8	Conventional heads	70,000/-
9	Total : (7+8)	₹16,02,160/-

Accordingly, the appeal is allowed. The award of the Tribunal is modified and the total compensation payable is assessed at ₹16,02,160/-. 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. The claimants will share the amount of compensation as per the award of the learned Tribunal.

(JAISHREE THAKUR)
JUDGE

17.10.2019
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No