

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

FAO No.2027 of 2016 (O&M)
Date of Decision: July 16, 2019

Sukhwinder Kaur and others

Appellants

Versus

Paramjit Singh and another

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S.K. Arora, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for the Insurance Company.

JAISHREE THAKUR, J. (Oral)

1. This appeal seeks to challenge the award dated 16.10.2015 passed by the Motor Accident Claims Tribunal, Moga, wherein the appellants herein have been allowed compensation of a sum of ₹7,70,000 on account of the death occurred to the husband of appellant No.1 due to an accident.

2. In brief, the facts on 08.11.2014, Sukhdev Singh, husband of appellant No.1 was a pillion rider on a motor cycle bearing registration No.PB-29/J-4831 driven by Kuldeep Singh, followed by Gursewak Singh on separate motorcycle with pillion rider Iqbal Singh, was hit by Innova Car bearing registration No. DL-4/CAE-4437 driven by Paramjit Singh who was driving the car rashly and negligently. On account of the accident that took place, Kuldeep Singh died on the spot whereas Sukhdev Singh was shifted

to Civil Hospital, Baghapurana, from where, he was referred to Civil Hospital, Moga and then to GGS Medical College, Faridkot but on the way he succumbed to the injuries. Therefore, the claimants filed a claim petition, while stating that on account of rash and negligent driving of the Innova Car bearing registration No. DL-4/CAE-4437 the husband of the appellant No.1 died.

3. Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal is on the lower side. It is submitted that in the accident the appellant succumbed to the injuries. The Tribunal has assessed the income of the deceased as a daily wage labourer, which is on a lower side. Whereas it has come on record that the deceased was working as a painter by profession and also used to sell 10 kgs milk daily and was earning ₹14,000/- per month from these two professions. Learned counsel further submits that the Tribunal has not awarded any amount for future prospects and therefore, the appellants are entitled to addition of 50% in income of the deceased towards future prospectus, ₹1,00,000/- for loss of consortium for appellant No.1 and another amount of ₹1,00,000/- towards loss of estate, love and affection for appellants No.4 and 5. The Learned counsel for the appellants further submits that the Tribunal has only awarded ₹25,000/- as compensation on account of loss of love and affection to appellants No.2 and 3, which is on a lower side, whereas they are entitled to ₹2,00,000/- on account of loss of love and affection, care and guidance for the children. He further submits that the Tribunal has awarded interest @6% per annum is also on lower side whereas the appellants are entitled to interest @ 9% per annum from the date of filing of the claim petition till

realisation of the award amount.

4. The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable. It was further averred that no accident took place with the vehicle driven by respondent No.1. Respondent No.2 filed separate written statement while taking preliminary objection that the claim petition is not maintainable. It was further averred by respondent No.2 that the vehicles alleged to be involved in the accident were not driven by authorized persons having valid and effective driving licenses and the claim petition is based on false, frivolous, vague and contradictory facts. Issues were framed and thereafter evidence was led by the parties. In order to substantiate the claim, appellants except herself as CW2 also examined two other witnesses as CW-1 and CW-3 and produced Ex. C-1 to C2 and also tendered documents. On the other hand, no oral evidence was led by the respondents but they tendered documents Ex. R1 to Ex. R4 in evidence.

After scrutiny of the evidence brought on record, the Tribunal held that the 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 ₹7,70,000/- which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the compensation amount awarded to the appellants deserves to be enhanced.

Mr. Lalit Garg, Advocate has appeared on behalf of respondent No.2 -Insurance company.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 35 years of age and was earning ₹5000/- per month. The Tribunal deducted 1/4th towards personal expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has taken the income of the deceased as ₹5000/- per month. Similarly the Tribunal took the age of the deceased as 35 years while applying the multiplier of 16 rightly awarded the amount of compensation, as mentioned above. However, increase in income on account of minimum wages, 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**. Therefore, compensation payable to the appellants are re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Sukhdev Singh
2	Date of accident	08/11/14
3	Age of the deceased	35 years
4	Monthly income of the deceased	6600/-
5	40% of (4) is to be added towards future prospects	(6600+2640)=9240/-
6	1/4 th of (5) above deducted towards personal expenses	(9240-2310)=6930/-
7	Compensation calculated after applying the multiplier of 16	6930x16x12=13,30,560/-
8	Conventional heads	70,000/-
9	Total (7+8)	14,00,560/-

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 ₹14,00,560/- and the amount in excess over what was awarded will also attract interest @6.5% from the date of the petition till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

July 16, 2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No