

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

FAO No. 3960 of 2017 (O&M)
Date of decision: 6.3.2019

Smt. Santosh Devi and others

...Appellants

Versus

Vikas and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Naveen Singh Panwar, Advocate,
for the appellants.

None for respondent No.3.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 29.4.2014 passed by the Motor Accident Claims Tribunal, Sonapat, wherein the appellants herein have been allowed compensation of ₹3,99,964/- on account of death of Satbir.

2. In brief, the facts are that on 17.11.2012 deceased Satbir Singh, along with his son, namely Sandeep Kumar, was going on his motorcycle bearing DL-35-AF-6697 and when they reached in the area of village Shehzadpur on Sonapat-Tharu road, they were hit by tractor HR-10T-6876 being driven by respondent No.1 in rash and negligent manner, as a result of which, Satbir as well as his son Sandeep fell on the road. Satbir received grievous injuries and ultimately succumbed to the injuries. It was alleged that the accident took place due to the sole rash and negligent driving of

respondent No.1 and consequently FIR 413 dated 17.11.2012 came to be lodged with the Police Station Sadar, Sonapat. With these averments, claim petition was filed by the widow and the children of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was contractor by profession and was earning ₹50,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action has accrued etc. 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 PW2 to PW7 and also tendered documents. On the other hand, the respondents examined RW1 to RW3 and also tendered documents Ex. R1 to Ex. R6 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 ₹3,99,964/-, which has been now challenged in the instant appeal.

Learned counsel for the appellant 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.

None has appeared on behalf of respondent No.3—Insurance company despite service, therefore, this Court is left with no option but proceed to decide the case in the absence of respondent No.3.

The Tribunal, after examining the evidence produced by the

respective parties held that the deceased was 57 years of age and was earning ₹5000/- per month. The Tribunal held that appellants No. 4 and 5 being married daughters were not dependent upon the deceased and, therefore, deducted 1/3rd 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 rightly taken the income of the deceased as ₹5000/- per month. Similarly, since the appellants were not able to prove the age of the deceased to be 51 years as claimed, therefore, the Tribunal keeping in view the nature of the evidence brought on record arrived to the conclusion that the deceased was 57 years of age and while applying the multiplier of 9 rightly awarded the amount of compensation, as mentioned above. 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**. Therefore, compensation payable to the appellants are re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Satbir
(ii)	Date of accident	17.11.2012
(iii)	Age of the deceased	57 years
(iv)	Monthly income of the deceased	₹ 5,000/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 5000+₹2000)= ₹ 7000/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 7000-₹2333) = ₹ 4667/- per month
(vii)	Compensation calculated after applying the multiplier of 9	(₹4667X12X9) = ₹ 504036/-

(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹5,7,4036

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 ₹ 5,7,4036/- and the amount in excess over what was awarded will also attract interest @7.5% 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.

6.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No