

FAO No. 16009 of 2018 (O&M)

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

FAO No. 16009 of 2018

Date of Decision: November 27, 2019

Ginder Pal Kaur and others

..... Appellants(s)

Versus

Santokh Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Shubham Mehta, Advocate for
Mr. Vivek Singla, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with
vide order dated 30.05.2019.

Mr. Amit Kundra, Advocate
for respondent no.3-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 30.01.2018, passed by learned Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as 'the Tribunal').

Appellants-claimants filed a petition under Section 166 read with Section 140 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Rajwinder Singh, due to the injuries suffered by him in the motor vehicle accident, which took place on 18.02.2017. Deceased was claimed to be 27 years old and an agriculturist by vocation, besides running dairy business, thereby earning Rs.50,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Rajwinder Singh lost his life due to the injuries received by him in the motor vehicle accident, which took place on 18.02.2017, due to the rash and negligent driving of the offending Tata Canter 407 bearing registration No. PB-04R-9874, by its driver Santokh Singh-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.6,600/- per month by considering him to be a casual labourer, awarded a sum of Rs.10,13,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	6,600/- per month
2.	Income after addition @ 40% on account of future prospects	6,600 + 2,640 = 9,240/-
3.	Income after deducting 1/2 as personal living expenses of the deceased	9,240/- x 1/2 = 4,620/-
4.	Dependency after applying multiplier of 17	4,620 x 12 x 17 = 9,42,480/-
5.	Loss of estate	15,000/-
6.	Loss of consortium	40,000/-
7.	Funeral expenses	15,000/-
	Total	Rs.10,12,480/- (Rounded off to 10,13,000/-)

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants contends that income of the deceased has been wrongly assessed at a rate which is even lesser than the

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minimum wage available to an unskilled labourer at the time of the accident. It is contended that the deceased was an agriculturist and also engaged in dairy business, therefore, income of the deceased should be assessed appropriately. Deduction of 1/2, it is submitted, is incorrectly applied and compensation under the conventional heads be also enhanced. It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding death of Rajwinder Singh in the motor vehicle accident, which took place on 18.02.2017, due to the rash and negligent driving of the offending Tata Canter 407 bearing registration No. PB-04R-9874, by its driver Santokh Singh-respondent no.1. It is a matter of record that the deceased was 27 years old at the time of the accident. Appellants claimed the deceased to be an agriculturist besides being engaged in dairy business. Reference to the J-forms Ex.P6 to Ex.P9 by learned counsel for the appellants is of no avail for the simple reason that they have not been issued in the name of the deceased but are admittedly issued in favour of Sukhdev Singh, father of the deceased. There is furthermore no evidence on record to show that the deceased was engaged in dairy business. Be that as it may, the evidence on record does indicate that

the deceased was involved in helping his father in the pursuit of agriculture. Learned counsel for the insurance company is unable to deny that the minimum wage available to an unskilled labourer at the time of the accident was Rs.7,458/- per month. Keeping in view the facts and circumstances of the case, it is considered just and appropriate to assess income of the deceased to be Rs.8,000/- per month.

There is no merit in the argument raised by learned counsel for the appellants that a deduction of 1/3rd should be applied in this case. He is unable to deny that there is no evidence on record to indicate that the claimants were dependent on the deceased in any manner. Therefore, deduction of 50% has been correctly applied. Increment on account of future prospects has been correctly given by the learned Tribunal. Multiplier of 17 was correctly applied by learned Tribunal. Compensation under the conventional heads has also been correctly awarded by the learned Tribunal.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income	8,000/- per month
2.	Income after addition @ 40% on account of future prospects	8,000 + 3,200 = 11,200/-
3.	Income after deducting 1/2 as personal living expenses of the deceased	11,200 x 1/2 = 5,600/-
4.	Dependency after applying multiplier of 17	5,600 x 12 x 17 = 11,42,400/-
5.	Loss of estate	15,000/-
6.	Loss of filial consortium to appellant no.2	40,000/-
7.	Funeral expenses	15,000/-
	Total	Rs.12,12,400/-

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Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

**(LISA GILL)
JUDGE**

November 27, 2019

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