

FAO-6788-2016 (O&M)

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

FAO-6788-2016 (O&M)
Date of decision : 24.01.2020

Parmod Kumar Jain and others

... Appellants

Versus

Ramesh Mehto and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Rajat Garg, Advocate for
Mr. Aditya Jain, Advocate
for the appellants.

Mr. Yogesh Gupta, Advocate for
Mr. M.B. Jain, Advocate
for respondent No.3-M/s Bharti AXA General Insurance
Company.

Mr. Punit Jain, Advocate
for respondent No.6-M/s Cholamandlam MS General Insurance
Company.

ALKA SARIN, J.

1. The present appeal has been preferred by the claimants against the order dated 04.05.2016 passed by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'Tribunal').

2. Shorn of all unnecessary details, the brief facts necessary for deciding the present appeal are that on 15.01.2014, Rahul (since deceased) was riding on motorcycle bearing Registration No.HR-29-4697 at a moderate speed and as per the traffic rules. The maternal uncle of Rahul, namely, Virender Singh was travelling as a pillion rider along with Rahul.

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Around 11.00 a.m., when they reached at National Highway No.2, Banchari Ganda Nala, Hodal, a Pop Line Machine bearing Engine No.S-60102E-1 was being driven rashly and negligently. Due to which, an iron sheet affixed by the side of the road got uprooted and struck the motorcycle. As a result of the impact, Rahul fell down and sustained multiple and grievous injuries. Meanwhile, a truck bearing registration No.HR-74-A-3254, which was being driven by respondent No.4 in a negligent and rash manner, crushed Rahul. Due to which, he died at the spot. His post-mortem examination was conducted on the same day and an FIR No.29 dated 15.01.2014 was registered under Sections 279 and 304-A of the Indian Penal Code. During investigation, both the drivers of the Pop Line Machine as well as offending truck, were found responsible for causing the accident and therefore, a challan was presented against both the drivers.

3. The Tribunal on a claim petition filed by the parents and siblings of Rahul, has awarded the following compensation:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹5500/-
2	50% Deduction for personal expenses (being unmarried)	₹2750/-
3	Annual Income	₹2750 x 12 = ₹33000/-
4	Multiplier '18'	₹33000x18 = ₹5,94,000/-
5	Loss of Love and Affection	₹100000/-
6	Funeral Expenses	₹10000/-
7	Total Compensation	₹7,04,000/-

Plus interest @ 7.5% p.a. from the date of filing of the claim petition till actual realization. Out of the awarded compensation, ₹4,04,000/- was to be paid to appellant No.2 (mother), ₹1,00,000/- to

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appellant No.1 (father) and balance amount of ₹2,00,000/- was to be apportioned in equal shares amongst appellant Nos.3 to 5.

4. Dissatisfied with the amount awarded by the Tribunal, the claimants have preferred the present appeal.

5. I have heard learned counsel for the parties.

6. It has been contended by learned counsel for the appellants that income of the deceased has wrongly been assessed as ₹5,500/- per month.

7. However, learned counsel for the appellants has not been able to show any credible evidence led by the claimants to prove that the income of the deceased was beyond ₹5,500/- per month.

8. It has further been contended by learned counsel for the appellants that the Tribunal has erred in not granting any amount towards future prospects as well as filial consortium to the parents.

9. Per contra, learned counsel for respondent Nos.3 and 6/Insurance Companies, have submitted that the amount awarded by the Tribunal is just and fair.

10. As per law laid down by the Apex Court in the case of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(6) Supreme Court Cases 121, National Insurance Company Ltd. vs. Pranay Sethi and others, (2017) (16) Supreme Court Cases 680, and Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 Supreme Court Cases 130**, I find that the Tribunal has erred in not granting any amount towards future prospects as well as towards filial consortium to the parents as also to the siblings. Accordingly and as per the law laid down in the above referred judgments of the Hon'ble Apex Court, I deem it appropriate to award the following

compensation:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹5500/-
2	Deduction 50%	₹2750/-
3	Future Prospects 40%	₹1100/-
4	Total Monthly Income	₹2750+1100 = ₹3850/-
5	Annual Income	₹3850 x 12 = ₹46200/-
6	Multiplier '18'	₹46200x18 = ₹8,31,600/-
7	Filial Consortium to mother & father Filial Consortium to sisters Filial Consortium to minor brother	₹40,000/- (each) ₹40,000/- (jointly) ₹40,000/-
8	Loss of Estate	₹15,000/-
9	Funeral Expenses	₹15,000/-
10	Total Compensation	₹10,21,600/-

12. Thus, the claimants shall be paid the enhanced amount of compensation to the tune of ₹3,17,600/- (₹1021600-704000) over and above the amount awarded by the Tribunal along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization. Out of the said amount of ₹3,17,600/-, an amount of ₹40,000/- shall be paid to minor brother and ₹20,000/- each to the two sisters while the rest of the amount shall be shared by the parents of the deceased equally.

13. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified, accordingly.

24.01.2020
Yogesh Sharma

(ALKA SARIN)
JUDGE

Whether speaking/reasoned Yes/ No
Whether Reportable Yes/ No