

315 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2071-2003

Date of Decision: 16.09.2022

NARENDER DEV PUNIA AND ORS

..... Appellants

Versus

HASAN MOHD AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : None for the appellant.

Mr. Neeraj Khanna, Advocate for

Mr. Ravinder Arora, Advocate for respondent No.3.

JAGMOHAN BANSAL, J. (Oral)

1. The appellant through instant appeal is seeking enhancement of compensation awarded by learned Motor Accident Claims Tribunal (for short 'Tribunal'), Gurugram, whereby learned Tribunal has awarded compensation of Rs.7,35,000/- alongwith interest @ 9% on account of death of Ajay Poonia.

2. The brief facts emerging from record and necessary for the adjudication of present appeal are that Ajay Poonia (deceased) 28 years old, who was a qualified engineer, met with an accident on 03.03.2001. The deceased at the time of accident alongwith his wife Smt. Annu was travelling in his Maruti car bearing registration No. HR-26-II-6001, which was struck by a truck bearing registration No. DL-IGA-7066. The deceased died on the spot and his wife sustained serious injuries. An FIR No.147 of 2001 dated 03.03.2001 was registered against the driver of the truck at Police Station Shahpura. The appellants preferred claim petition under Section 166 of Motor Vehicles Act, 1988 (for short ' 1988 Act'),

seeking compensation on account of death of Ajay Poonia. Learned Tribunal vide order dated 11.02.2003 decided all the issues in favour of appellants and held driver of the vehicle rash and negligent. Learned Tribunal considered income of the deceased Rs.5,000/- per month and accordingly determined the compensation.

3. The appeal was listed before this Bench on 05.09.2022 and inspite of notice nobody has put in appearance on behalf of the appellant. This is an appeal of the year 2003 and appellants are seeking enhancement of compensation. It would be in the interest of justice, if the present appeal with the able assistance of learned counsel for respondent No.3-Insurance Company is finally considered and adjudicated, as I am of the opinion that learned Tribunal has assessed income of deceased on lower side.

4. It is settled proposition of law that where claimants are not able to prove income of the deceased, Court shall assess income on the basis of quality of life being led by the victim and his family, the general earning of an individual employed in that field, the qualification of the victim, and other considerations.

It is further settled law that Court should ensure while fixing the notional income that the same is just in the facts and circumstances of the particular case. Neither it should be conservative nor too liberal. Compensation ought to be just and reasonable. It must be guided by principles of fairness, equity and good conscience.

5. In the case in hand, the deceased was 28 years old and he was bachelor in mechanical engineering. The claimants could not place on record proof of income of the deceased because he was neither filing

income tax return nor he was employed with any Company/Organization. However, it has been pleaded that he was doing his own work of consultancy.

6. Keeping in mind that deceased was 28 years old qualified mechanical engineer, he was living in Gurugram, he was married and having one minor child as well old age parents, he was having car, it would be appropriate if the income of the deceased is assessed Rs.7,000/- per month and accordingly amount of compensation is redetermined. Hon'ble Supreme Court in **National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121** has laid down para meters for assessment of compensation payable to family members.

7. Learned Counsel for the respondent fairly concedes that amount of compensation deserves to be redetermine in view of aforesaid judgments.

8. Considering income of the deceased Rs.7,000/- per month and applying principles laid by Hon'ble Supreme Court in aforestated judgments, the amount of compensation is redetermine as below:-

Particulars	Amount of compensation
Annual income of the deceased	84,000/-
Future prospects	40.00%
Income after addition of future prospects	1,17,600/-
Deduction on account of personal expenses	1/4 th
Assessed income	88,200/-
Multiplier (17)	14,99,400/-
Loss of estate	16500
Loss of consortium (44000x4)	1,76,000/-

Particulars	Amount of compensation
Funeral expenses	16500/-
Total	17,08,400/-

9. The appellants are entitled to interest @ 7.5% from the date of filing of claim petition till the date of actual payment. It is made clear that amount already paid would be deducted from claim determined hereinabove.
10. The respondents are directed to make payment within a period of eight weeks from today.
11. The appeal is disposed of in the abovesaid terms.

(JAGMOHAN BANSAL)

JUDGE

16.09.2022

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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>