IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1886-2005(O&M)

Reserved on: 11.10.2022

Pronounced on:19.10.2022

Jaswinder Kaur and others …Appellants

Versus

Mandeep Singh and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr.Mann Rattan, Advocate, for
Mr. Jasbir Rattan, Advocate for the appellants.

Mr. Surinder Chaudhary, Advocate, for respondent No. 2.

Mr. Paul S. Saini, Advocate,
with Mr. Tarranum Madan, Advocate,
for respondent no.3/Insurance Company.

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**HARKESH MANUJA, J.**

1. Present appeal lays challenge to an award dated 13.12.2004 passed by the learned Motor Accident Claim Tribunal, Sangrur (hereinafter referred to as 'Tribunal'), whereby, a sum of Rs.3,84,000/- has been awarded as compensation in favour of appellants/ claimants along with interest at the rate of 9% per annum.

2. The brief facts, which led to the filing of present appeal are that on 16.02.2004, Nirmal Singh @ Billu (deceased) along with Kuldeep Singh as pillion rider was going from Dhuri towards village Bhasaur on scooter bearing No. PB-13-M-1753. When they reached near the bank in the area of village Bhasaur, a Tata Tempo bearing No.HR-46-A-7812 (offending vehicle) being driven by respondent No. 1, in a rash and negligent manner, hit against their scooter as a result thereof, they fell down on the pakka

road, suffered multiple grievous injuries including head injuries and Nirmal Singh died at the spot.

3. In the claim petition filed by the appellants/ claimants being dependents upon deceased Nirmal Singh, learned Tribunal while holding that the accident had occurred on account of rash and negligent driving of the offending vehicle, awarded compensation in the following manner:-

| Sr.No. | Particulars | Amount(Rs.) |
|---|---|---|
| 1. | Annual income of deceased | Rs. 36,000/- |
| 4. | After deduction of 1/3rd | Rs. 24,000/- |
| 5. | Multiplier of 16 as per age of 27 years | Rs. 3,84,000/- |
| | **TOTAL COMPENSATION**: | Rs. 3,84,000/- |

4. Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Tribunal.

5. Learned Counsel for the claimants/ appellants contends that claimants have proved on record that the deceased was running a dairy and selling the milk along with agriculture work and as such, his income should have been assessed on the higher side. He further contends that as the age of deceased at the time of death was 27 years, multiplier of 17 should have been applied and the number of dependents being 4, deduction on account of personal expenses should have been 1/4th. He also contends that nothing has been awarded on account of future prospects and under other conventional heads.

6. On the other hand, learned counsel for Respondent No. 3/ Insurance Company argues that as the income of the deceased could not be proved, so the same had to be assessed in view of minimum wages. However, learned Tribunal while assessing the income of the deceased even took it more than minimum wages and therefore, the compensation

awarded is just and fair. He further contends that the interest given @ 9% per annum should be reduced as per the prevailing rates.

7. Having heard learned counsel for both the parties and gone through the paper book as well as the records of the case, I find force in the arguments raised by learned counsel for the appellants/ claimants. With regard to the avocation of the deceased, the case of the appellants/ claimants from the very beginning has been that he was involved in the work of agriculture and dairy farming. It is settled proposition of law that if deceased is working in an unorganised sector, it is not possible for appellants/ claimants to prove his income by bringing on record the documentary evidence regarding the same. In this case, the appellants/ claimants have brought on record the copy of passbook (Ex. P2) and a jamabandi (Ex-P7) to show that the deceased has been supplying milk and was also doing the agricultural work. The documentary proof of passbook was corroborated by the testimony of PW-3 Baljeet Singh, who identified the entries made therein and his signature on the passbook. Therefore, in my considered opinion, it was sufficiently proved on record that the deceased was doing the business of selling milk.

Though, it could not be categorically proved that he was owning/ cultivating any land, but, it cannot be denied that he might be at least doing some labour work in the fields. However, learned Tribunal considered his income only slightly higher than the minimum wages of an unskilled/ ordinary labourer i.e. Rs.3,000/- per month which in my considered opinion is disproportionately on the lower side and the same should have been assessed at least Rs.5,000/- per month.

8. With respect to the multiplier, deduction on account of personal expenses and future prospects, I find substantial force in the arguments

made by the learned counsel for the appellants/ claimants. In view of judgment of Hon'ble Apex Court in **Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another**,2009 (3) RCR (Civil) 77, as the learned Tribunal held the age of the deceased to be 27 years, multiplier of 17 should have been applied. Further, in view of the law laid down in **"National Insurance Company Ltd. Vs. Pranay Sethi and others"**, 2017(4) RCR (Civil) 1009, as the deceased was engaged in an unorganised sector, the future prospects should have been awarded @ 40% of annual income. Further, as the number of dependents were four, deduction on account of personnel expenses should have been 1/4$^{th}$. Besides this, with respect to the compensation awarded under the other conventional heads, applying the principles of law laid down by Hon'ble Supreme Court in **Pranay Sethi's** case (supra), the claimants are entitled for compensation of Rs.16,500/- under the head of funeral expenses, besides loss of consortium (parental, spousal and filial) to be awarded to the tune of Rs.1,76,000/- (Rs.44,000/- x 4) and a further sum of Rs.16,500/- towards loss of estate.

In view of what has been stated hereinabove, the appellants/ claimants shall be entitled for the compensation in following manner:-

| ***Sr.No.*** | ***Nature*** | ***Amount in Rupees*** |
|---|---|---|
| *1.* | *Annual Income of deceased (Rs.5,000x 12)* | *Rs.60,000/-* |
| *2.* | *Add 40% of Future prospects* | *Rs.24,000/-* |
| *3* | *Total Income* | *Rs.84,000/-* |
| *4.* | *Deduction ¼$^{th}$* | *Rs.21,000/-* |
| *5.* | *Multiplier of 17 (Rs.63,000 /- X 17)* | *Rs.10,71,000/-* |
| *7.* | *Funeral Expenses* | *Rs.16,500/-* |
| *8.* | *Loss of Consortium (Rs.44000x4)* | *Rs.1,76,000/-* |
| *9.* | *Loss of Estate* | *Rs.16,500/-* |
| | ***Total Compensation*** | *Rs.12,80,000/-* |
| | ***Amount Awarded by the Tribunal*** | *Rs. 3,84,000-* |
| | ***Enhanced Amount*** | *Rs. 8,96,000/-* |

9. So far as the grant of interest @ 9% per annum is concerned, in my view, it does not require any interference as per the observations made by the Hon'ble Supreme Court in ***Smt. Supe Dei and others Vs. National Insurance Company Limited and other***, (2009) (4) SCC 513, approved in a subsequent judgment titled as ***Puttamma and others Vs. K.L. Narayana Reddy and another***, 2014 (1) RCR (Civil) 443.

10. In view of the discussion made hereinabove, the present appeal is disposed of.

11. Pending miscellaneous application(s) if any, shall also stand disposed of.

**October 19, 2022** **( HARKESH MANUJA )**
**sanjay** **JUDGE**

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|---|---|
| *Whether speaking/reasoned* | *Yes/No* |
| *Whether Reportable* | *Yes/No* |