

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 26.07.2022

1. FAO-5306-2006 (O&M)

Prem Lata and others

..... Appellants

versus

Sheopal and others

..... Respondents

2. FAO-921-2007 (O&M)

Manjit Kaur and another

..... Appellants

versus

Sheopal and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: None for the appellants.

Mr. Suman Jain, Advocate with
Mr. Man Mohan, Advocate
for respondent No.3-Insurance Company.

PANKAJ JAIN, J.

These are two appeals arising out of the award dated 30.08.2006 passed by Motor Accidents Claim Tribunal, Sirsa (hereinafter referred to as 'Tribunal). In a motor vehicular accident dated 20.12.2004, Malkiat Singh and Baldev Raj lost their lives.

2. Two different claim petitions under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act') were preferred by their respective legal representatives. Since both the appeals involve common set of facts and have arisen out of the same accident, the same are being taken up for adjudication together.

3. As per claim petition, on 20.12.2004 Malkiat Singh and Baldev Raj were travelling in a car No.DL-2CE-2408 from Sirsa to Fatehabad. They were struck by a canter bearing registration No.HR-39/7528 being driven rashly and negligently by respondent No.1. Baldev Raj died on the spot. Malkiat Singh succumbed to his injuries on 29.12.2004.

4. In both the appeals, the claimants seek modification of the award and are claiming enhanced compensation.

5. In the case pertaining to death of Baldev Raj i.e. FAO-5306-2006, it has been proved on record that deceased Baldev Raj was employed as ASI and was drawing salary of Rs.12428/- per month. He was about 50 years of age at the time of his death. No future prospects have been awarded. The claimants are entitled for 15% for future prospects. Multiplier also needs to be enhanced from 7 to 13. Under the conventional heads as per law laid down in **National Insurance Company Limited vs. Pranay Sethi and others 2017 (16) SCC 680**, each of the claimants shall be entitled for Rs.44,000/- for loss of consortium. Rs.15,000/- on account of funeral expenses and Rs.15,000/- for loss of estate also need to be awarded.

6. So far as the compensation payable on account of death of Malkiat Singh is concerned, he was an agriculturist and was 34 years of age. He was maintaining car. In the considered opinion of this Court, the Tribunal erred in assessing him as a casual labour. His land holding has also been proved on record as Ex.PK. Thus, he needs to be assessed at least as a highly skilled labour. As per the notification issued by the State of Haryana for relevant period of time, his income is thus assessed to be Rs.3350/-. Deduction of 1/3rd has been rightly applied. Keeping in view the age of the deceased, future prospects of 40% needs to be added. Multiplier of 15 is modified to 16. The

claimants shall also be entitled for compensation under the conventional head as per law laid down in Pranay Sethi's case (supra). Rs.44,000/- each is awarded to the claimants for loss of consortium, Rs.15,000/- for loss of estate and Rs.15,000/- as funeral expenses. The amount of Rs.25,000/- awarded on account of damage to the car is maintained.

7. Consequently, the appeals are allowed. The award passed by the Tribunal is modified. Compensation payable to the claimants shall be worked out as per the amounts modified herein above. The claimants shall also be entitled for 9% interest on the awarded amount from the date of filing of the claim petition till the date of actual realization. Needless to say any amount already paid shall be set off and adjusted.

8. Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed off.

9. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

26.07.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No