

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

FAO-4353-2012 (O&M)

Date of Decision: 13.09.2022

Dani Devi and others Appellants

Versus

Pritam Singh and another Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.Satbir Gill, Advocate for the claimants/ appellants.

Mr.Amarjit Beniwal, Advocate for
Mr. Harish Nain, Advocate for respondent No.1.
respondent No.2 ex-parte.

HARKESH MANUJA, J.

By way of present appeal, the appellants have questioned the adequacy of compensation awarded by the learned Motor Accident Claims Tribunal, Jind, for short 'the Tribunal', vide its award dated 03.04.2012.

The facts, in brief, are that on 23.06.2011 the deceased (Hawa Singh) was going to his Village Jajanwala from Village Prabhuwala on bicycle, followed by his son Balwinder Singh on a separate bicycle. When the deceased reached near Gupta Brick Kiln, a jeep bearing registration No.HR-31-A-0426 being driven by respondent No.1 in a rash and negligent manner came from behind and struck the bicycle of deceased. As a result thereof, Hawa Singh fell down and suffered multiple grievous injuries. The deceased was shifted to General Hospital, Narwana, but he succumbed to the injuries on the way.

On account of the death of Hawa Singh, his dependents filed claim petition before the learned Tribunal. Learned Tribunal allowed the same and assessed the annual income of the deceased as Rs.21,600/- and after applying the multiplier of 10, calculated the total dependency of the claimants as Rs.2,16,000/- (Rs.21,600 x 10). It would be appropriate to mention here that as both the sons of the deceased being major were not found to be dependents upon their deceased father, therefore, learned Tribunal applied deduction @ 50% from the annual income of the deceased. Apart from that, Rs.10000/- was awarded towards funeral, transportation and consortium, therefore, the claimants were held to be entitled for a total compensation of Rs.2,26,000/- along with interest @ 9% per annum from the date of institution of the petition till its realization.

In the present appeal, the appellants/ claimants have sought enhancement of compensation.

Learned counsel for both the parties are *ad idem* that there is no dispute regarding the annual income as well as deduction. However, learned counsel for the claimants/appellants argues that while assessing the annual income, future prospects in view of the judgment of Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and others***, 2017(4) RCR (Civil) 1009 has not been awarded and even the multiplier of 11 needs to be applied. Learned counsel for the appellants further contends that only Rs.10,000/- has been awarded towards funeral, transportation and consortium and no compensation has been awarded under the other conventional heads. Though, present appeal has been filed on behalf

of sons of deceased as well, however, in view of the finding of the learned Tribunal, counsel for the claimants/ appellants has not pressed the issue regarding their dependency.

Learned counsel for respondent No.1 submits that compensation awarded by the learned Tribunal is just and fair and therefore, no interference is warranted.

Having heard the arguments advanced by learned counsel for both the parties and gone through the paper-book, I am of the considered view that as the age of the deceased at the time of accident was held to be about 54-55 years by the learned Tribunal, being self-employed, as such, 10% of annual income should have been awarded on account of future prospects.

Besides this, with respect to the compensation awarded under the other conventional heads as well as multiplier, applying the principles of law laid down by Hon'ble Supreme Court in **Pranay Sethi's case(supra)** and in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) 77, the claimant are entitled for Rs.16,500/- as compensation under the head of funeral expenses, loss of consortium (spousal) is to be awarded to the tune of Rs.44,000/- and Rs.16,500/- towards loss of estate by applying 10% increase under the conventional heads. And multiplier of '11' has to be made applicable instead of '10'.

In view of the discussions made hereinabove, the appellants are entitled for following enhanced compensation, as detailed in the table given hereunder:-

Sr.No.	Particulars	Amount (Rs.)
1.	Annual Income of deceased (Rs.3600 x 12)	Rs.43,200/-
2.	Add 10% of Future prospects	Rs.4320/-
3.	Total Income	Rs.47,520/-
4.	Deduction (1/2) i.e. 50%	Rs.23,760/-
5.	Multiplier of 11 as per age of 55 years (Rs.23760 x 11)	Rs.2,61,360/-
6.	Funeral Expenses	Rs.16,500/-
7.	Loss of Consortium	Rs.44,000/-
8.	Loss of Estate	Rs.16,500/-
	Total Compensation	Rs.3,38,360/-
	Amount Awarded by the Tribunal	Rs.2,26,000/-
	Enhanced Amount	Rs.1,12,360/-

Learned counsel for the parties have not raised any dispute regarding the rate of interest awarded by the Tribunal, therefore, the same is kept intact. Needless to mention here that the amount of compensation already paid to the claimants/appellants shall be deducted from the enhanced compensation.

The present appeal is disposed off in the manner, indicated hereinabove.

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

September 13, 2022
sanjay

(HARKESH MANUJA)
JUDGE

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