

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

**FAO No.5640 of 2012
Date of Decision : 20.07.2022**

Puran Chand and another

....Appellants

Versus

Ranjit Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Aman Redhu, Advocate for
Mr. Rakesh Bakshi, Advocate
for the appellants.

Mr. Vikas Mohan Gupta, Advocate and
Mr. Varun Mittal, Advocate
for respondent No.3/Insurance Company.

PANKAJ JAIN, J.

Claimants are in appeal seeking modification of the award passed by the Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal').

2. Claimants filed the claim petition under Section 166 of the Motor Accident Claims Tribunal, Ambala seeking compensation for untimely death of their unmarried son namely Krishan Kumar in a motor-vehicular accident dated 9th of April, 2011.

3. As per the claim petition, on the fateful day the deceased Krishan Kumar along with his brother Sohan Lal and brother-in-law was going from from their Village Tandwal on tractor trolley bearing registration No.HR-04A-3496. The tractor was being driven by Sohan Lal. When they

reached near village Mehmoodpur on Shahzadpur-Saha road, transit mixer vehicle bearing registration No.PB-11-AJ-9667 driven rashly and negligently by respondent No.1 came from Shahzadpur side and hit the tractor trolley. As a result of the accident, the tractor trolley turned turtle, due to which all of them fell down and suffered injuries. Krishan Kumar succumbed to his injuries. A criminal case was got registered against respondent No.1 vide FIR No.55 dated 9th April, 2011 under Sections 279, 337 and 304-A of the Indian Penal Code, 1860 in Police Station Industrial Area, Saha.

4. On the basis of the pleadings of the parties, following issues were framed by the Tribunal:-

- “1. Whether accident occurred due to rash and negligent driving of transit mixer bearing registration No.PB-11-AJ-9667 resulting into death of Krishan Lal and injuries to Sohan Lal by Ranjit Singh respondent No.1 as alleged? OPP*
- 2. If issue No.1 is proved in affirmative to what amount of compensation the claimants are entitled to and from whom?*
- 3. Whether the respondent No.1 did not possess valid and effective driving licence at the time of accident? OPR3*
- 4. Relief.”*

5. Since the appellants are in appeal for enhancement of compensation thus, the scope of the appeal is confined to Issue No.2.

6. Ld. Counsel for the appellants submits that the income of the

deceased has been wrongly assessed. He was earning Rs.10,000/- per month from agriculture and Rs.5,000/- per month from dairy farm. The compensation ought to have been calculated by taking income of the deceased to be Rs.15,000/-. He further submits that no addition has been made on account of future prospects and multiplier of 5 has been wrongly applied which ought to have been 17 as per ratio of law laid down by the Supreme Court in **'National Insurance Company Limited vs. Pranay Sethi and others', (2017) 16 SCC 680**. He further submits that even the amount granted under the conventional heads is meager and no amount has been awarded under the head of loss of consortium.

7. Per contra, Ld. Counsel for respondent No.3/Insurance Company fairly admits that the appellants are entitled for grant of future prospects, multiplier and enhanced amount under conventional heads as per the dictum of **Pranay Sethi's** case (supra). However, he asserts that no evidence on record has been produced to show that the deceased was an agriculturist and had some land holding.

8. I have heard Ld. Counsel for the parties and have carefully perused the records of the case.

9. Apart from bare oral testimony of the claimant Puran Chand there is nothing on record to indicate about the income of the deceased. Thus, the Tribunal has rightly taken the rate of minimum wages notified by the State of Haryana as applicable to the casual labour to assess the income of the deceased @ Rs.4500/- per month. However, the appellants are

entitled for factor of future prospects to the tune of 40% and the multiplier also needs to be enhanced from 5 to 17. Deduction of 1/2 has been rightly applied. Under the conventional head i.e. loss of consortium, both the appellants are also entitled for a sum of Rs.44,000/- each. Compensation granted for Loss of Estate is enhanced from 10,000/- to 15,000/-. Expenditure for last rites of the deceased is also enhanced from Rs.10,000/- to Rs.15,000/-

10. As a sequel of the aforesaid discussion, the present appeal is allowed. The Award stands modified to the extent as stated herein above.

11. The total compensation be calculated accordingly and paid to the claimants/appellants. The appellants shall also be entitled for interest on the payment as awarded by the Tribunal from the date of institution of the petition till realization.

12. Needless to say that any amount already paid to the claimants/appellants shall be set off.

13. Ordered accordingly.

July 20, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No