

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

433

FAO-2770-2013 (O&M)
Date of Decision: 22.09.2022

Sumitra Devi and another

---Appellants

versus

Chander Pal @ Kala and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr.Ramender Chauhan, Advocate
for the appellants.

None for the respondents.

JAGMOHAN BANSAL, J. (ORAL)

1. The appellants through instant appeal are seeking enhancement of compensation awarded vide award dated 31.01.2013 passed by Motor Accident Claims Tribunal, Sonapat (for short 'Tribunal') whereby Tribunal has awarded a sum of Rs.2,74,000/- along with interest @ 7½ % per annum from the date of filing of the claim petition.

2. The present appeal was listed for hearing before this Court on 15.09.2022 and on that day, there was no representation on behalf of the respondents. Today also, there is no change in the situation. The appeal is of the year 2013, thus, the Court is left with no option except to adjudicate with the able assistance of counsel for appellant.

3. The facts emerging from record and necessary for the adjudication of present appeal are that on 17.08.2011, Kapil and his father Har Kishan while riding on scooter met with an accident with a motorcycle bearing registration No.HR-11D-0882. Kapil died on the spot. The appellants filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Kapil. The Tribunal after adjudicating different issues concluded that driver of motorcycle bearing registration No.HR-11D-0882 was responsible for the accident. Consequently, the Tribunal awarded compensation of Rs.2.74 lakhs on account of death of Kapil.

4. Learned counsel for the appellants fairly states that he does not dispute quantum of income assessed by the Tribunal. However, he prays that amount of compensation be re-determined in view of a five-Judge Bench judgment of Hon'ble Supreme Court in **National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and a three-Judge Bench judgment of Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121**. There is no dispute qua age of deceased. The Tribunal has conceded multiplier 11 whereas as per afore-cited judgments of Hon'ble Supreme Court, multiplier should be 18. No income on account of future prospects has been assessed whereas it should be 40%. The compensation awarded under conventional heads is on the lower side.

5. I have perused the record and heard arguments of

counsel for appellant.

6. There is no dispute qua income of the deceased i.e. Rs.4,000/- per month and age of deceased is 25 years. In view of judgments of Hon'ble Supreme Court, the multiplier should be 18, income under future prospects should be 40% and amount under conventional heads should be granted. Applying the ratio laid down by Hon'ble Supreme Court in the afore-cited judgments, the amount of compensation is re-determined as below :-

Particulars	Amount of compensation (in Rs.)
Annual income of the deceased	48000
Future prospects	40.00%
Income after addition of future prospects	67200
Deduction on account of personal expenses	50%
Assessed income	33600
Multiplier (18)	604800
Loss of estate	16500
Loss of consortium (44000X2)	88000
Funeral expenses	16500
Total	725800

7. 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.

8. The respondent-Insurer is directed to make payment within a period of eight weeks from today.

9. The appeal is disposed of in the above-stated terms.

(JAGMOHAN BANSAL)
JUDGE

22.09.2022
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No