

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

231

FAO-5189-2016 (O&M)
Date of decision: 25.03.2022

Champa Rani and othersAppellants

Versus

Ram Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Ishita Jain, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate
for respondent No.3-Ins. Co.

MANJARI NEHRU KAUL, J. (ORAL)

The appellants-claimants who are mother, father and younger sister of the deceased Sandeep, are impugning the award dated 26.04.2016 passed by learned Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri vide which their claim petition was allowed and the appellants were awarded Rs.4,87,400/- @ 7.5% per annum from the date of filing of the petition till its actual realization. The amount awarded by the Tribunal in the sum of Rs.4,87,400/- was assessed as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.5,800/-
2.	Annual Income	12x5800=Rs.69,600/-
3.	Future Prospects	--
4.	Total Annual Income	Rs.69,600/-
5.	Deduction (50%)	Rs.34,800/-
6.	Annual Dependency	Rs.34,800/-
7.	Multiplier	13
8.	Total Dependency	Rs.34,800x13=Rs.4,52,400/-

9.	Loss of Consortium	--
10.	Filial Consortium to Mother and Father	--
11.	Funeral Expenses	Rs.25,000/-
12.	Loss of Estate	Rs.10,000/-
13.	Total Compensation	Rs.4,87,400/-

Brief facts of the case are that on 25.09.2013, Sandeep (since deceased), aged 27-28 years, a bachelor was coming back to his home after collecting paddy straw on his bicycle. At about 06:00 P.M. when he reached near village Masana Rangran, a truck bearing registration No.HR-64-8374 (offending vehicle) being driven by respondent No.1 in a rash and negligent manner came from behind and struck the cycle, as a result of which, Sandeep fell down and sustained fatal injuries. On account of the multiple injuries sustained in the motor vehicular accident, the deceased succumbed to them.

The deceased was stated to be running a milk dairy and earning Rs.15,000/- per month. Further, it was claimed that the deceased had secured a job in Muscat (UAE) on a salary of Rs.47,000/- per month.

On being put to notice, respondents put in appearance. Respondents No.1 and 2 filed their written statement wherein the factum of accident in question was denied.

Respondent No.3 filed its separate written statement wherein it was pleaded that the accident took place due to the sole negligence of the deceased himself. It was further pleaded that the petition had been filed by the claimants in collusion with respondents No.1 and 2 by falsely involving the offending vehicle in the accident in question.

On the basis of pleadings of the parties, following issues were framed:

1. Whether Sandeep Singh son of Singh Ram died in an accident caused by vehicle No.HR-64-8374 due to rash and negligence driving of respondent No.1 as alleged? OPP
2. To what amount of compensation, if any, and from whom the claimants are entitled? OPP
3. Whether the insured has violated the terms and conditions of the insurance policy as alleged. If so, its effect? OPR-3
4. Relief

Learned counsel for the appellants contended that though the learned Tribunal vide its impugned award recorded a positive finding that the accident in question had occurred due to the rash and negligent driving of respondent No.1 and had awarded compensation in the sum of Rs.4,87,400/- to the appellants, however, the compensation assessed was inadequate. It was submitted that the monthly income of the deceased was wrongly assessed as Rs.5,800/- per month even though his passport Ex.P2 along with a copy of his visa Ex.P3 had been placed on record to show that the deceased was to go to Muscat (UAE) for employment and was to draw a salary of Rs.47,000/- per month. It was also submitted that nothing was assessed qua future prospects and even no compensation was assessed with respect to the loss of sibling consortium to the unmarried sister of the deceased. It was further submitted that the compensation assessed qua the other conventional

heads also required to be reassessed in the light of the settled law. Learned counsel still further submitted that a wrong multiplier had been applied by taking into account the age of appellant/claimant No.1 i.e. the mother of the deceased whereas the multiplier should have been on the basis of the age of the deceased as per settled law. In support of her submissions, learned counsel placed reliance upon *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270* and *United India Insurance Co. Ltd. vs Satinder Kaur @ Satwinder Kaur and others : 2020(3) RCR (Civil) 75*.

Learned counsel appearing for the insurance company opposed the submissions made by the counsel opposite with respect to the monthly income of the deceased having been assessed at only Rs.5,800/- per month. He submitted that no proof of income was brought on record before the Tribunal in support of the income of the deceased and hence the Tribunal after taking into account the minimum wages prevailing in the State of Haryana in the year 2013, in respect of the skilled labourer, rightly assessed his income as Rs.5,800/- per month. Learned counsel conceded that since the age of the deceased was about 27-28 years, the multiplier as per settled law should have been 17 and not 13 which had been wrongly applied by the Tribunal on the basis of the age of appellant/claimant No.1 i.e. mother of the deceased.

After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that the compensation awarded by the Tribunal requires to be reassessed in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme

Court in *Pranay Sethi's case (supra)* and *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*.

The age of the deceased was 27-28 years, therefore, in view of the law laid down by the Hon'ble Supreme Court in *Sarla Verma's case (supra)*, the multiplier of '17' is to be applied instead of '13'.

The Hon'ble Supreme Court in *Pranay Sethi's case (supra)* has quantified the amount in the sum of Rs.15,000/-, Rs.15,000/- and Rs.40,000/- to be awarded under conventional heads i.e. loss of estate, funeral expenses and loss of consortium respectively. Still further, it has been held that the aforesaid amounts would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement qua the compensation under conventional heads, as was also held and reassessed by Hon'ble Supreme Court in *Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344* as per the ratio laid down in *Pranay Sethi's case(supra)*. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/-, Rs.16,500/- and Rs.44,000/- for loss of estate, funeral expenses and loss of consortium respectively.

This Court, however, does not find any merit in the submissions made by the counsel for the appellants qua the monthly income of the deceased having been assessed on the lower side. In the opinion of this Court no interference is warranted as far as the monthly income assessed by the Tribunal is concerned as no cogent evidence

was led to prove the income of the deceased.

Resultantly, the compensation is re-assessed as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.5,800/-
2.	Annual Income	12x5800=Rs.69,600/-
3.	Future Prospects (40%)	Rs.69,600x40%=Rs.27,840/-
4.	Total Annual Income	Rs.97,440/-
5.	Deduction towards personal expenses (1/2)	Rs.48,720/-
6.	Annual Dependency	Rs.48,720/-
7.	Multiplier	17
8.	Total Dependency	Rs.48720x17=Rs.8,28,240/-
9.	Filial Consortium to Mother, Father and Sister	Rs.44,000/- each i.e. Rs.1,32,000/-
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.9,93,240/-

The appellants-claimants are therefore, held entitled to a total of Rs.9,93,240/- as compensation along with interest @ 9% per annum from the date of filing of petition till its actual realization.

With these modifications, the present appeal stands disposed of in above terms.

25.03.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No