

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

FAO No.7633 of 2015

Date of Decision : 22.07.2022

Bimla Devi and others

....Appellants

Versus

Multan Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Raj Kapoor Malik, Advocate
for the appellants.

Service of respondents No.1 and 2 dispensed with
vide order dated 9th May, 2016.

Mr. Rajbir Singh, 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, Kaithal (for short, 'the Tribunal').

2. Claim petition was preferred by the appellants under Section 166 read with Section 144 of the Motor Vehicles Act, 1988 seeking compensation for untimely death of Deepak in a motor-vehicular accident dated 25th July, 2014.

3. As per the claim petition, on the fateful day deceased/Deepak while returning from college was hit by a Dumper bearing registration No.HR-55N-3066 coming from Ambala side, which was being driven rashly and negligently. Deepak suffered multiple grievous injuries. The

driver of the dumper though tried to run away, but was caught by the people gathered.

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

1. *Whether the claimants are entitled to compensation on account of death of Deepak son of Pala Ram, resident of Patti Afgan, Kaithal in a road side vehicular accident, which had occurred on 25.07.2014 at Vishva Karma Chowk, Kaithal, Police Station City Kaithal on account of rash and negligent driving by respondent no.1 while driving the offending vehicle i.e. Dumper bearing registration no. HR-55N-3066? OPP*
2. *If issue no. 1 is proved, then what amount of compensation, the claimants are found entitled to and from whom? OPP*
3. *Whether respondent no. 1 was not holding a valid and effective Driving Licence and the Dumper was being driven in violation of terms and conditions of the insurance policy at the time of accident? OPR-3*
4. *Relief.”*

5. The appellants are seeking enhancement of compensation. Thus, the scope of the present appeal is confined to Issue No.2 only.

6. Ld. Counsel for the appellants submits that it has been proved on record that the deceased was a student of BBA studying in Government College, Kaithal. Apart from studying, the deceased was helping his father in agricultural work and was earning Rs.8,000/- per month. He submits that the deceased died in his prime youth aged 19 years. He claims that the

multiplier of 14 has been wrongly applied considering the age of the deceased and the same should have been 18 as per 'Smt. Sarla Verma & others vs. Delhi Transport Corporation & another' (2009) 6 SCC 121.

He further claims that 40% future prospects have been wrongly denied and the compensation granted under the conventional heads also needs to be enhanced as per the law laid down by the Supreme Court in 'National Insurance Company Limited vs. Pranay Sethi and others', (2017) 16 SCC 680.

7. Per contra, Ld. Counsel for respondent No.3/Insurance Company submits that there is no evidence on record which would warrant enhancement of income from Rs.6,000/- as assessed by the Tribunal. However, Ld. Counsel for the respondent/Insurance Company is not in a position to deny that the appellants are entitled for enhancement *qua* future prospects, multiplier and conventional heads as per **Pranay Sethi's** case (*supra*).

8. I have heard Ld. Counsel for the parties and with their able assistance have carefully gone through the records of the case.

9. In the absence of any cogent evidence, Tribunal has rightly relied upon the minimum wages as notified by the State of Haryana to assess income of the deceased @ Rs.6,000/-. However, keeping in view the dictum of **Pranay Sethi's** case (*supra*) future prospects of 40% need to be awarded. Deduction of 1/2 has been rightly applied. Multiplier also needs to be enhanced from 14 to 18. Under the conventional heads also the

appellants are entitled for amount of Rs.88,000/- (Rs.44,000/- each to appellants No.1 and 2) for loss of consortium; Rs.15000/- for funeral expenses and Rs.15000/- for Loss of Estate.

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 22, 2022

Dpr

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No