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

**FAO No. 848 of 2016 (O&M)
DATE OF DECISION :- November 16, 2022**

Krishana **...Appellant**

Versus

Vrinder Singh and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. R.K. Shukla, Advocate for the appellant.

Mr. Sachin Bansal, Advocate
for Mr. Anupam Singla, Advocate for respondents No. 1 and 2.
Mr. Shubham Jain, Advocate
with Mr. Manmohan, Advocate for respondent No. 3.

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On account of death of One Mandeep Singh son of Sh. Jaipal, aged about 22 years, statedly working as a Barber, earning Rs.10,000/- per month, in a motor vehicular accident, which took place on 27.11.2014 at about 5.00 A.M in the area of near Haji Majra turning poing on Ghanaur, Patiala road, statedly on account of rash and negligent driving of Bus No. PB-03-G-8311 by respondent No. 1 Vrinder Singh, such Bus belonging to respondent No. 2 M/s New Bir Bus Service and insured with The New India Assurance Company Limited, Patiala, Respondent No. 3 mother of said deceased namely Smt. Krishana, aged about 52 years had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against driver, owner and Insurance Company of the Bus in question before the Motor Accident Claims Tribunal, Patiala.

After contest, the Tribunal vide Award dated 24.7.2015 accepted the claim petition awarding compensation of Rs.7,33,000/- with interest at the rate of 8% per annum to claimant payable by all the three respondents jointly and severally.

Finding the compensation so granted to be inadequate, the appellant claimant has approached this Court by way of filing the instant appeal, notice of which was given to the respondents who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Although in the claim petition the appellant claimant had alleged that the deceased was earning Rs.10,000/- per month by working as a Barber, however, the Tribunal considering the facts and circumstances of the case and after due analysis of the evidence adduced by the parties fixed the income of the deceased as Rs.6,000/- per month. In my view the same was rightly done by the Tribunal. However, the Tribunal has not added any amount towards future prospects.

A perusal of the judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009'*** by the Apex Court goes to show that it has been specifically observed that in case the deceased was self employed or on a fixed salary an addition of 40% of the established income should be there where the deceased was below the age of 40 years.

Doing that the income of the deceased comes out to be Rs.8400/- (Rs.6,000 + 2400) per month. As deceased was a bachelor and claim petition had been filed by his mother, the Tribunal was justified in making deduction of 50% of such income towards personal expenses of the deceased. Now after making that deduction the monthly dependancy comes out to be Rs.4200/-. The Tribunal fell in error in adopting multiplier of 16 which considering the age of the deceased should have been 18 in view of the judgment ***"Smt. Sarla Verma***

and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77" by the Apex Court.

Accordingly, the annual dependency of the deceased comes to Rs.4200 x 12=Rs.50,400/-. The total dependency is worked out to be Rs.50,400 x 18=Rs.9,07,200/-. The claimant has been awarded a sum of Rs.85,000/- under the conventional Heads. No interference there with is called for. Adding that amount the total compensation is worked out to Rs.9,92,200/-. The Tribunal has awarded interest at the rate of 8% which under the circumstances is not found to be on higher side.

Therefore, the compensation awarded by the Tribunal to the tune of Rs.7,33,000/- is enhanced to Rs.9,92,200/-. The difference comes out to be Rs.2,59,200/-(9,92,200-7,33,000). The claimant shall be entitled to get interest at the rate of 8% on the enhanced amount from the date of filing of claim petition till actual realization.

In my view the direction issued by the Tribunal that half amount would be released to the claimant whereas remaining half would be deposited in the FDR in her name for a period of three years and that the same be released on maturity of FDR needs not be there in this order because a person requires hard cash to meet his/her needs and period of three years directed by the Tribunal has elapsed by now.

With such modification, the appeal is allowed, with costs.

(H.S. MADAAN)
JUDGE

November 16, 2022
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No