

FAO No.07 of 2020
Decided on : 04.05.2022

..... Appellant

Kaptan and another

..... Respondents

Present : Mr. Sushil Jain, Advocate
for the appellant.

Manjari Nehru Kaul, J.(Oral)

Instant appeal has been preferred by the appellant-claimant to impugn the award dated 12.07.2019 passed by Motor Accidents Claims Tribunal, Rohtak (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to her on account of the death of her husband namely Rajbir in an accident on 27.01.2018 :-

Sr. No.	Head	Amount
1	Monthly income	Rs.25,000/-
2	Annual income Rs.25,000 x 12	Rs.3,00,000/-
3	Deduction ½ towards personal expenses	Rs.1,50,000/-
4	Multiplier	5
5	Total dependency (Rs.1,50,000x 5)	Rs.7,50,000/-
6	Loss of estate	Rs.15,000/-
7	Loss of consortium	Rs.40,000/-
8	Funeral expenses	Rs.15,000/-
9	Total compensation	Rs.8,20,000/-

The amount of compensation along with interest @ 6% p.a. was ordered to be paid jointly and severally by respondents No.1 and 2 to the

appellant-claimant from the date of filing of petition till its realization.

Brief facts of the case may be noticed. On 27.01.2018 the appellant's husband Rajbir (hereinafter referred to as 'deceased') alongwith Ramphal were going on their motorcyle bearing registration No.HR-15-A-1061 from village Lakhan Majra to village Kherenti. The deceased was pillion riding behind Ramphal. While they were just ahead of village Chandi near Jaivir Service Station, respondent No.1 came in a rash and negligent manner and hit his car bearing registration No.HR-20-P-4040 (hereinafter referred to as 'the offending vehicle') against the motorcycle of the deceased, as a result of which, both Ramphal and deceased fell down and sustained serious injuries. FIR No.19 dated 28.01.2018 was got registered at the instance of Ramphal. The deceased succumbed to his injuries later on. It was claimed that the deceased was 65 years of age and had retired from the Army. He was drawing pension in the sum of Rs.19,349/- per month. Besides this, he was getting Rs.1,078/- per month as EFP pension from Central Cooperative Bank, Faridabad.

On being put to notice, respondents put in appearance. Respondent No.1 (driver-cum-owner of the offending vehicle) in his written statement denied the factum of accident in question. Learned counsel for respondent No.2 -Insurance Company submitted that the driver of the offending vehicle was not holding a valid and effective driving licence and as such, there had been violation of the terms and conditions of the insurance policy.

On the basis of material and evidence led, the Tribunal awarded the compensation, which already stands reproduced above.

Learned counsel for the appellant *inter alia* contends that while

passing the impugned award, the Tribunal erred in applying an incorrect multiplier of '5' instead of '7'. He submits that no future prospects were assessed and granted while passing the impugned award and hence, the amount of compensation awarded by the Tribunal was inadequate and required to be enhanced.

After hearing learned counsel for the appellant and on perusing the case file, this Court is of the opinion that the submissions made by learned counsel are bereft of any merit. The deceased was admittedly 65 years of age at the time of the accident in question. Hence, as per the ratio laid down in ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121***, the multiplier applicable in this case would be 5, which has been rightly applied.

The next contention of the appellant-claimant that no future prospects were granted while passing the impugned award, is devoid of any merit too. Since the deceased was 65 years of age at the time of the accident in question, hence, as per the ratio laid down in ***National Insurance Co. Ltd. vs. Pranay Sethi & ors., 2017(4) RCR (Civil) 1009***, future prospects could not have been assessed and given to the appellant-claimant. No other point was argued by the learned counsel.

Accordingly, the instant appeal being devoid of any merit stands dismissed.

04.05.2022
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No