

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

FAO No. 215 of 2000 (O&M)

DATE OF DECISION :- July 12, 2023

Smt. Munesh Devi and others

...Appellants

Versus

Sadhu Ram and others

...Respondents

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

Present:- Mr. Munish Kumar Garg, Advocate
and Ms. Bhawna Thakur, Advocate for the appellant.

Mr. Balwan Singh, Advocate for
Mr. D.R. Bansal, Advocate for respondent No. 1.

Mr. R.N . Lohan, Advocate for respondent No. 2.

Mr. Vinod Chaudhari, Advocate for respondent No. 3.

1. Briefly stated the facts of the case are that on account of death of one Jaibir Singh son of Sh. Partap Singh, aged about 31 years in a motor vehicular accident, which took place on 19.11.1997 at about 4.45 A.M in the area of Village Jaijaiwanti within jurisdiction of Police Station Julana, District Jind, statedly on account of rash and negligent driving of tractor bearing Registration No. HR-31A-3902 (hereinafter referred to as the offending tractor) by respondent No. 2 Bara Singh, legal representatives of such deceased namely his widow Smt. Mukesh Devi, minor daughters Rekha, Madhuri and Parveen, mother Smt. Chand Kaur, father Sh. Partap Singh, all residents of Village Julana, Tehsil and District Jind had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Sahdu Ram, owner, Bara Singh, driver and the Oriental Insurance Company Limited, Jind, insurer of tractor in question.

2. After contest the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'The Tribunal') came to the conclusion that respondent No. 2 Bara Singh was the author of the accident by his rash and negligent driving resulting in death of Jaibir Singh and taking the age of the deceased to be 31 years and assessing his monthly income as Rs.2000/- per month and the dependency of the claimants as Rs.1500/- per month, by applying multiplier of 18 had granted the total compensation of Rs.3,34,000/- to the petitioners claimants payable by all the three respondents jointly and severally. The petitioners claimants found the compensation so awarded by the Motor Accident Claims Tribunal to be insufficient and have approached this Court by way of filing an appeal, notice of which was given to the respondents, who have put in appearance through counsel.

3. I have heard learned counsel for the appellants and learned counsel for the respondents despite going through the record.

4. A perusal of the impugned order goes to show that the Tribunal had assessed the income of the deceased to be Rs.2000/- per month but had not made any addition towards future prospects.

5. In view of judgment '*National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009*' when the deceased was self employed or on fixed salary an addition of 40% on the established income should be made towards future prospects when the deceased was below the age of 40 years. In this case the age of deceased has been found to be 31 years, therefore, an addition of 40% of the salary is to be made towards future prospects. Doing that the monthly income of the deceased is assessed as Rs.2800/-. Keeping in view the number of dependent family members who were claimants in the claim petition to be six, in terms of

judgment "*Smt. Sarla Verma and others vs. Delhi Transport Corporation and*

another 2009(3)RCR Civil 77” deduction of 1/4 is to be made towards personal and living expenses of the deceased. Doing that the dependency of the claimants comes out to Rs.2800-Rs.700=Rs.2100/-. Therefore, the annual dependency comes out to Rs.2100 x 12=Rs.25,200. The Tribunal has applied multiplier of 18. However, in view of judgment “*Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77*” where the deceased was in the age group of 31-35 years multiplier of 16 should be applied. Doing that the total dependency is worked out to be 25,200 x 16=4,03,200/-. The petitioners claimants are entitled to get a sum of Rs.70,000/- under conventional Heads i.e. Rs.40,000/- under the Head loss of consortium, Rs.15,000/- as funeral expenses and Rs.15,000/- under the Head of loss of Estate. Adding that amount the total compensation is worked out to be Rs.4,73,200/-. The Tribunal has awarded a sum of Rs.3,34,000/-. In that way the claimants are entitled to get additional compensation of Rs.1,39,200/- (4,73,200 – 3,34,000). The petitioners claimants are entitled to get interest at the rate of 7.5% on the additional compensation from the date of filing of claim petition till actual realization. Since 25 years have elapsed from the date of filing of claim petition, the minor children must have attained majority by now. Let additional amount of compensation be apportioned among the claimants equally. The liability to pay this amount would be joint and several by all the three respondents.

6. The appeal is allowed partly with costs.

(H.S. MADAAN)
JUDGE

July 12, 2023
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No