

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

FAO-5153-2019(O&M)

Reserved on:-1.5.2023

Date of Pronouncement:-8.5.2023

Giano Devi @ Gyano Devi and another

...Appellants

Versus

Sant Singh and others

...Respondents

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

Present: Mr.Arvind Bansal, Advocate
for the appellants.

Mr.K.S. Derabassi, Advocate
for respondents No.1 and 2.

Mr.Rajneesh Malhotra, Advocate
for respondent No.3.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that on account of death of Amit @ Amit Kumar son of Bachan Singh @ Bacchan Singh and Giano Devi alias Gyano Devi in a motor vehicular accident, which took place on 2.7.2017 in the area of village Janetpur within jurisdiction of Police Station Dera Bassi, statedly on account of rash and negligent driving of Hyundai I20 car bearing registration No.CH-04-J-6083 (hereinafter

referred to as the offending car) by respondent No.1 Sant Singh, parents of such deceased, namely, Giano Devi @ Gyano Devi and Bachan Singh @ Bacchan Singh, both presently residing at Harmilap Nagar, Phase-1, near Prem Mandir, Baltana, Zirakpur, District SAS Nagar (Mohali) had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) against Sant Singh – driver, Rakesh Kumar – owner and New India Assurance Company Ltd., Panchkula – insurer of the offending car.

2. After contest, the claim petition was allowed partly by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as the Tribunal) vide award dated 27.3.2019 and compensation of Rs.18,84,400/- along with interest @ 7.5% per annum from the date of filing of the claim petition till its realization was awarded to the claimants, payable by all the respondents jointly and severally.

3. The claimants felt aggrieved by the said award and have approached this Court by way of filing an appeal seeking enhancement of compensation awarded to them. Notice of the appeal was issued to the respondents, who have put in appearance through counsel.

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

5. The Tribunal on analysis of the evidence brought on record by the parties had given a clear verdict that the mishap in which Amit @ Amit Kumar had died had taken place on account of rash and negligent driving of the offending car by respondent No.1 Sant Singh. It being so, the driver of the car, namely, Sant Singh, its owner Rakesh Kumar and

New India Assurance Company Ltd., Panchkula were found liable to pay compensation.

6. The Tribunal while assessing the compensation payable to petitioners/claimants, who are parents of the deceased had taken age of deceased as 23 years and monthly income of the deceased to be Rs.12,000/-, although the claimants relying upon various vouchers Ex.P16 to Ex.P20 had contended that the deceased was getting Rs.20,000/- per month by working as Manager at Sethi Dhaba, Dera Bassi, District SAS Nagar (Mohali). The claimants had examined PW3 Rajesh Kumar, who had produced the attendance record and salary record of deceased Amit @ Amit Kumar stating that deceased was serving as a Manager at their Dhaba for the period from 28.12.2016 till death of the deceased on 2.7.2017. The claimants had relied upon various vouchers in support of their contention that the deceased was getting Rs.20,000/- per month as salary from Sethi Dhaba.

However, the Tribunal by dealing with the matter in a very minute and analytical manner has observed that in absence of any supporting proof/record like account books or income tax returns of Sethi Dhaba, the monthly income of the deceased cannot be taken to be Rs.20,000/-. Therefore, considering the educational qualification of the deceased, he was treated as a skilled worker and his monthly income was taken as Rs.12,000/-.

7. The Tribunal has allowed 40% addition towards future prospects in terms of the authority **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009**, calculating the

income of the deceased as Rs.16,800/- per month. Since the deceased was bachelor, deduction to the extent of 50% was rightly made towards personal and living expenses of the deceased, assessing dependency of the claimants to be Rs.8,400/- and multiplier of 18 was also rightly applied taking the age of deceased to be 23 years and then compensation arrived at Rs.18,14,400/-. In terms of ratio of authority **National Insurance Company Limited Versus Pranay Sethi and Ors.(surpa)**, the claimants were granted compensation under conventional heads i.e. Rs.15,000/- to the claimant No.1 towards expenses on last rites and transportation of dead body of deceased and further a sum of Rs.15,000/- was granted to the claimants towards loss of estate. The petitioner No.1 was also granted Rs.40,000/- as filial consortium. The total amount of compensation awarded by the Tribunal comes out to Rs.18,84,400/-.

8. The compensation awarded is fair and appropriate. I am not convinced by the arguments advanced on behalf of the counsel for the appellants that the Tribunal should have taken the monthly income of the deceased to the tune of Rs.20,000/- and it fell in error in taking the income as Rs.12,000/-. I do not find myself in agreement with the learned counsel for the appellants in that regard.

9. As has been pointed out earlier, in absence of the account books and income tax record of Sethi Dhaba, it could not be taken that deceased used to get Rs.20,000/- per month by working as Manager with Sethi Dhaba. The monthly income of the deceased taken to be Rs.12,000/- was the adequate amount to be considered.

10. I find that the amount of compensation awarded is

appropriate and reasonable. The compensation can certainly be not taken to be on lower side and no case for enhancement of the same is made out.

11. Finding no merits in the present appeal, the same stands dismissed.

Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

8.5.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No