

In the High Court of Punjab and Haryana at Chandigarh

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FAO-1057-2015 (O & M)

Date of Decision: May 03, 2023

MEENA AND ORS

.....APPELLANTS

VERSUS

YASIN AND ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr.Robin Dutt, Advocate for the appellants.

Mr. Rajnish Malhotra, Advocate for Insurance Company.

ANUPINDER SINGH GREWAL, J (ORAL)

1. The appellants/claimants have challenged the award dated 31.10.2014 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short, 'the Tribunal') whereby compensation of Rs.7,11,200/- has been awarded to the claimants.

2. Learned counsel for the appellants submits that income of the deceased has been assessed at Rs.4800/- per month although it was proved on record that the deceased was owner-cum-driver of the truck and his income was over Rs.15000/- per month. In support of his submission, he has relied upon the judgment of the Supreme Court in the case of **Kala Devi versus Bhagwan Das Chauhan**, (2015) 2 SCC 771, judgments of this Court in the cases of **New India Assurance Company Ltd. Versus Master Arshad alias Asad and others**, 2020 (1) An. WR 214 and **Bhateri Devi and others versus Vidyadhar Noparam Jat and another**, 2018 (4) Law Herald 3192. He further submits that no amount has been given towards loss of future prospects, although 40 per cent was admissible as the age of the deceased at the time of the accident was 32 years. He also submits that no parental and filial consortium was awarded in

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view of the law laid down by the Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi, (2017) 16 SCC 680.**

3. Learned counsel for the respondent-Insurance Company submits that the income of Rs.4800/- per month which has been assessed by the Tribunal is just and reasonable and does not call for any interference. The accident had taken place in the year 2012 and the daily wages for unskilled labour were Rs.5580/- per month and for semi-skilled labour were Rs.5730/- per month in the year 2012.

4. Heard.

5. The claim petition has been preferred by the wife, minor daughter and aged parents of the deceased, who while driving the truck had met with an accident on 21.03.2012. FIR No.32 dated 21.03.2012 under Sections 279 and 304-A IPC was registered at Police Station Chhachhrauli, District Yamuna Nagar. The Tribunal has assessed the income of the deceased as Rs.4800/- per month, although in the claim petition it was stated that he was earning over Rs.15000/- per month. There is no dispute that the age of the deceased at the time of death was 32 years. The Supreme Court in **Kala Devi's case (supra)** had assessed the income of a truck driver as Rs.9,000/- per month when the accident had taken place in 2003. It was also held that the job of a driver is a skilled job. This Court in **New India Assurance Company Ltd. Versus Master Arshad alias Asad and others case (supra)** had upheld the award of the Tribunal whereby the monthly income of the driver, who had lost his life, had been assessed at Rs.10,000/- when the accident had taken place in the year 2016. In **Bhateri Devi's case (supra)**, the accident dates back to the year 2010 and this Court had assessed the income of the truck driver to be Rs.8,000/- per month.

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6. In the instant case, the deceased was not only the driver of the truck but also its owner. The income assessed by the tribunal of Rs.4,800/- per month is on the lower side and deserves to be enhanced.

7. In view of the aforementioned facts and circumstances and the law laid down by the Supreme Court, it would be appropriate to assess the income of the deceased at Rs.10,000/- per month. The Tribunal has not awarded any amount towards loss of future prospects although the deceased was only 32 years at the time of accident and the Supreme Court in **Pranay Sethi's case (supra)** had held that the claimants would be entitled to additional 40% towards loss of future prospects. The compensation determined by the Tribunal under other heads including loss of estate, loss of consortium and funeral expenses needs to be enhanced in terms of law laid down in **Pranay Sethi's case(supra)**. The details of the enhancement are set out hereunder:-

Various Heads	Amount assessed by the Tribunal	Amount assessed by this Court
Income of the deceased	Monthly : Rs.4,800/- p.m. Annual: Rs.57,600/- p.a.	Monthly : Rs.10,000/- p.m. Annual: Rs.1,20,000/- p.a.
Deduction	1/4 th	1/4 th
Future Prospects	Nil	40%
Multiplier	16	16
Loss of estate	Rs.10,000/-	Rs.16,500/-
Funeral expenses	Rs.10,000/-	Rs.16,500/-
Loss of consortium	Parental- Not Given Filial - Not Given Spousal - Rs.10,000/-	Parental- Rs.44,000/- Filial - Rs.44,000/- Spousal - Rs.44,000/-
Total Compensation	Rs.7,11,200/-	Rs. 21,81,000/-
Interest	7.5% p.a.	7.5% p.a.
Enhanced compensation	-	Rs. 21,81,000/- – Rs.7,11,200/- = Rs.14,69,800/- along with interest @ 7.5% p.a.

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8. Consequently, the appeal is partly allowed. The enhanced amount of Rs.14,69,800/- shall be paid along with interest @ 7.5% p.a. from the date of filing of the claim petition till its realization.
9. Memo of costs be prepared accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

May 03, 2023
A.Kaundal

Whether speaking/ reasoned : Yes/No
Whether Reportable : Yes/No