

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

(217)

FAO-8075-2016 (O&M)

Date of Decision : May 12, 2023

Rohtash @ Rattan Lal since deceased Through LRs .. Appellants**Versus****Niranjan Singh and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Dheeraj Narula, Advocate, for the appellants.

Mr. R.K. Bashamboo, Advocate, for respondent No.1.

Ms. Ramandeep Kaur, Advocate, for respondent No.2-
Insurance Company.**HARSIMRAN SINGH SETHI J. (ORAL)****CM-26886-CII-2016**

As prayed for, the application is allowed.

FAO-8075-2016

1. Present appeal has been filed for enhancement of the compensation as awarded by the Motor Accident Claims Tribunal, Sirsa vide order dated 08.09.2016.

2. Learned counsel for the appellants submits that the deceased was around 40 years of age and was managing 10 acres of agriculture land however his income has been assessed @ Rs.7000/- per month which is much less as compared to the income that would generate from 10 acres

land where the deceased was working himself. Learned counsel for the appellants further submits that the said income needs to be enhanced so as to re-calculate the compensation for which, the claimants will become entitled for.

3. Learned counsel for the appellants further submits that even the consortium of Rs.40,000/- is yet to be paid to the claimants.

4. Learned counsel appearing on behalf of respondent No.1 submits that though, in the facts and circumstances of the present case, the income of the deceased has been assessed @ Rs.7000/- per month, the same needs not to be amended. Learned counsel for respondent No.1 further submits that in the present case, the future prospects @ 30% were given whereas, as per the settled principle of law, the same can only be to the tune of 25%.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Once, it has already come on record that the deceased was cultivating 10 acres land in order to earn his livelihood, it cannot be said that the deceased was only earning Rs.7000/- per month as assessed by the Tribunal. The farming of his own land is a technical occupation so as to get the maximum yield possible from the land in question. The same technical knowledge differs from person to person hence, keeping in view the technical knowledge which the deceased had as he was 40 years old and was cultivating the land in question for a period of more than two decades, the assessment of the income @ Rs.7000/- per month is not commensurate to the work being performed by a cultivator who is cultivating 10 acres of

land.

7. In the facts and circumstances of the present case, at least Rs.10,000/- per month should have been the minimum income of the deceased assessed for computing the amount of compensation.
8. Further, as per the settled principle of law, the claimants are also entitled for consortium of Rs.44,000/- which is also allowed in the favour of the claimants.
9. Learned counsel for respondent No.2-Insurance Company has rightly contended out that the future prospects have been given @ 30% whereas, as per the judgment of the Hon'ble Supreme Court of India in *Special Leave Petition (Civil) No.25590 of 2014 titled as National Insurance Company Limited vs. Pranay Sethi and others, decided on 31.10.2017*, the future prospects should have only been given @ 25%.
10. Learned counsel for the appellants has not been able to rebut the said contention.
11. Keeping in view the above, total income of the deceased is assessed as Rs.10,000/- per month, which will be taken for computation of the amount of compensation and a sum Rs.44,000/- as consortium will also be paid to the claimants. The future prospects are assessed to be computed @ 25% instead of 30% as done by the Tribunal.
12. Keeping in view the above, the total compensation for which the claimants will be entitled for, is as under:-

Income	10,000/-
Future Prospects 25%	10000+2500= 12,500/-
Deduction- 1/4 th	12500-3125 (1/4 th of 12500) = 9375
Multiplier	9375x12x14
Dependency	1575000
Conventional Heads	44000+16500+16500

FAO-8075-2016 (O&M)		2023:PHHC:069244	4
Total	16,52,000/-		
Awarded by MACT	14,97,293/-		
Enhanced amount with interest	1,54,707/-		

13. The present appeal is allowed in above terms

May 12, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes