

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

228

FAO No.1650 of 2018

Date of decision :-03.05.2023

Brijesh Kumari and others

.....Appellants

Versus

Mahesh and others

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Dr. Anand Kumar Bishnoi, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
For respondent No.3-Insurance Company.

NIDHI GUPTA J. (Oral)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.17,36,640/- awarded by the learned Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'the Tribunal'), vide Award dated 11.09.2017 passed in case CIS No.MACP/0121/2016 (MVA Petition No.73 of 2016), filed under Section 166/140 of the Motor Vehicles Act, 1988. The four claimants are the widow, minor son, and parents of the deceased Dharam Singh.

2. Brief facts of the case are that the learned Tribunal on perusal of the facts, pleadings and evidence adduced before it, concluded that the deceased Dharam Singh had died due to the injuries suffered by him in a motor vehicular accident that took place

on 10.02.2016 due to rash and negligent driving of Truck Canter bearing registration No.HR-39B-7626 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3 herein. Learned Tribunal has awarded compensation as above alongwith interest @ 8% per annum from the date of filing of the claim petition till the date of realization. Respondents were held jointly and severally liable to pay the compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the sole ground that at the time of death, the deceased was working as Driver in ISCON Food Relief Foundation from where he was getting a salary of Rs.7600/- per month. It is submitted that at the time of death, the deceased was 27 years old and accordingly, the learned Tribunal ought to have granted future prospects @ 40% whereas the learned Tribunal has granted future prospects @ 30%.

4. Learned counsel for the respondent-Insurance Company is unable to dispute this position in law.

5. Heard learned counsel for the parties and gone through the case file carefully.

6. Perusal of the record of the case shows that the age of the deceased was determined to be 27 years at time of death on the basis of his Aadhar Card (Ex.P-4), in which date of birth of the deceased is mentioned as 15.8.1989. Date of accident is 10.2.2016. It is, therefore, clear that as per judgment of the Hon'ble Supreme Court

National Insurance Company Limited v Pranay Sethi and others

(2017) 16 SCC 680 an addition of 40% ought to have been made towards future prospects.

7. Accordingly, the present appeal is allowed and compensation granted by the learned Tribunal is re-worked as under in accordance with law:-

Heads	MACT	Awarded by this Court
Income	Rs.7600 per month	Rs.7600/- per month
Future prospects	(30%)Rs.7600+Rs.2280/- =Rs.9880/-	(40%) Rs.7600 + Rs.3040 = Rs.10,640/-
After 1/4 th Deduction	Rs.7410/-	Rs.7980/-
Multiplier 17	Rs.7410/-x12x17 Rs.15,11,640/-	= Rs.7980/-x12x17 = Rs.16,27,920/-
Loss of consortium	Rs.1,00,000/-	Rs.1,60,000/-
Loss of love & affection	Rs.1,00,000/-	NIL
Funeral expenses	Rs.25,000/-	Rs.30,000/-
Total	Rs.17,36,640/-	Rs.18,17,920/-
Enhanced by	Rs.81,280/-	

8. Appellants shall be entitled to interest @ 8% per annum on enhanced compensation. Ratio of apportionment, and mode of disbursement of compensation, as determined by the learned Tribunal is maintained.

Pending applications, if any, stand disposed of.

May 03, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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