

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

FAO No. 3489 of 2018

DATE OF DECISION :- January 18, 2023

Santosh and another

...Appellants

Versus

Sarvjeet Singh and others

...Respondents

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

Present:- Mr. Jitender K. Sehrawat, Advocate for the petitioner.

Mr. Sachin Gupta, Advocate
for respondent No. 2-Insurance Company.

Briefly stated the facts of the case are that on account of death of one Shamsher in a motor vehicular accident which took place on 25.2.2015 at about 12 night in the area of Chaddarpul Hansi, the legal representatives of such deceased namely his parents i.e. his mother Santosh, aged about 60 years and father Ram Chander, aged about 62 years had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondent No. 1 Sarvjeet Singh, owner, IFFCO TOKIO General Insurance Company Limited, Hisar insurer besides legal heirs of Baljeet Singh, deceased driver of Toyota Etios Car bearing Registration No. HR-21- H-2043 involved in the accident. That claim petition along with some other connected claim petitions were disposed of by Motor Accident Claims Tribunal, Hisar vide judgment dated 12.1.2018 and compensation of Rs.4,18,084/- was awarded to the claimants payable by respondents No. 1 and 2 jointly and severally. The details of

compensation were worked out as follows :-

1	Monthly Income of deceased	Rs.6446/-
2	Deduction for personal and living expenses.(one half as deceased was bachelor)	Rs.3223/-
3	Net Income	Rs.3223/-
4	Yearly Income	Rs.3223 x 12 = Rs.38676/-
5	Multiplier (Age 60 of parents, multiplier of 9 as per Salra Verma's case)	Rs.38676 x 9 =Rs.3,48,084/-
6	Loss of Estate	Rs.15,000/-
7	Consortium	Rs.40,000/-
8	Funeral Expenses	Rs.15,000/-
	TOTAL	Rs..4,18,084/-

Feeling dissatisfied with the amount of compensation awarded, the claimants have approached this Court by way of filing an appeal, notice of which was given to the Insurance Company, who has put in appearance through counsel.

I have heard learned counsel for the appellants and learned counsel for the Insurance Company besides going through the record.

Learned counsel for the claimants has contended that keeping in view the age of the deceased as 30 years multiplier of 17 should have been applied, however, the Tribunal had wrongly used multiplier of 9 keeping in view the age of claimants when as per settled law age of the victim should have been taken into consideration. He has further pointed out that no addition was made towards income of the deceased towards future prospects as is required as per settled law of the subject. He has further pointed out that compensation under the Head loss of consortium has been grated only Rs.40,000/- when it should have been granted to both the claimants at that rate. This legal position is not disputed by learned counsel for the respondent Insurance Company.

Therefore making addition of 40% to the monthly income of the deceased taken to be Rs.6446/-, the amount comes out to $6446 + 2578 = \text{Rs.}9024/-$. Since the deceased was a bachelor, 50% of this amount is to be deducted towards his personal and living expenses. In that way the dependency of the claimants comes out to Rs.4512/-. The annual dependency comes out to $\text{Rs.}4512 \times 12 = \text{Rs.}54,144/-$. Using multiplier of 17 considering the age of the deceased the total dependency comes out to Rs.9,20,448/-. A sum of Rs.15,000/- each is to be added under the Head loss of Estate and funeral expenses and Rs.40,000/- each for two claimants under the Head loss of consortium. Therefore, the total compensation comes out to Rs.10,30,448/-. The Tribunal has awarded compensation of Rs.4,18,084/- only. The enhanced amount of compensation comes out to Rs.6,12,364/- payable by respondents No. 1 and 2 jointly and severally with interest at the rate of 7.5% per annum from the date of claim petition till actual realization. The appellants claimants would be entitled to get cost throughout. The apportionment of compensation amongst the appellants claimants and mode of payment shall remain the same as directed by the Tribunal in the impugned Award.

With such modification, the appeal is allowed with costs.

(H.S. MADAAN)
JUDGE

January 18, 2023
p.singh

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