

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

FAO No. 950 of 2018

DATE OF DECISION :- May 08, 2023

Jasbir Kaur and another

...Appellants

Versus

Bhupinder Singh and another

...Respondents

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

Present:- Mr. G.P. Vashisht, Advocate for the appellants.

Briefly stated facts of the case are that on account of unfortunate death of Mandeep Singh, aged about 23 years in a motor vehicular accident which took place on 15.11.2015 at about 4.30 P.M in the area of Mullanpur near Guru Gobind Singh Academy, Police Station Dakha, statedly on account of rash and negligent driving of tractor bearing registration number PB-10DM-2526 by respondent No. 1 Bhupinder Singh, parents of deceased namely his mother Smt. Jasbir Kaur, aged about 49 years, father Harbhajan Singh, aged about 51 years, both residents of village Changna had brought a claim petition under Section 166 of the Motor Vehicle Act, 1988 against respondents i.e. Bhupinder Singh, driver and Jaswant Singh, owner of tractor No. PB-10DM-2526 (hereinafter referred to as the offending tractor) claiming compensation.

Since it transpired that the tractor was not insured with any Insurance Company at the relevant time, therefore, the particulars of the Insurance Company could not be entered in the heading of claim petition.

After contest by respondents No. 1 and 2 the claim petition was accepted by Motor Accident Claims Tribunal, Ludhiana vide Award dated 28.4.2017 and compensation of Rs.11,78,200/- was awarded to the petitioners claimants payable by respondents No. 1 and 2 jointly and severally with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization besides costs of the petition.

Finding the compensation awarded to be on lower side, the petitioners claimants have approached this Court by way of filing an appeal, notice of which was given to both the respondents who did not appear despite service as such have been proceeded against ex-parte.

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

The Tribunal on analysis of the evidence produced before it had returned a finding that the accident in which Mandeep Singh had lost his life had taken place on account of rash and negligent driving of offending tractor by respondent No. 1 Bhupinder Singh, such respondent being driver and respondent No. 2 Jaswant Singh, owner of the tractor were found liable to pay the compensation to the petitioners-claimants who are none else but parents of deceased. With regard to quantum of compensation, though the petitioners claimants had come up with a version that the deceased was working as a Supervisor with M/s D.S. Builders in addition to doing business of Flour Mill and dairy farming earning Rs.22,500/- per month and they had examined PW4 Davinder Singh, Clerk of M/s D.S. Builders, who

had proved Ex.PW4/1 salary record of Mandeep Singh. But the Tribunal by giving valid reasons has disbelieved such avocation of the deceased and income so suggested by the claimants and treated him as a skilled labourer assessing his income as Rs.7500/- per month. I do not find anything wrong with such approach adopted by the Tribunal. The Tribunal has made addition of 30% towards future prospects. However, in case of judgment by a constitutional Bench of the Apex Court in '**National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009**' when the deceased was below the age of 40 years and was self-employed/on fixed salary an addition of 40% to the established income should be made. Doing that the monthly income of deceased is worked out to Rs.7500 + Rs.3000= Rs.10500/-. Considering the fact that the deceased was a bachelor, 50% of the amount is to be deducted towards his personal and living expenses. The dependency of his parents, the claimants comes out to Rs.5200/-. In that way, the annual dependency of claimants is worked out to 62,400/- (5200 x 12). Considering the age of deceased to be 23 years multiplier of 18 was rightly applied by the Tribunal in terms of judgment "**Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77**". In that way the total dependency of the claimants is worked out to 62400 x 18 = Rs.11,23,200/-. In addition to that the petitioners claimants are entitled to get Rs.15,000/- towards loss of Estate, Rs.15,000/- towards funeral expenses. Both the claimants are entitled to get Rs.40,000/- under the Head loss of consortium. The Tribunal had awarded funeral expenses to the tune of Rs.25,000/- which are modified accordingly to Rs.15,000/- and towards love and affection a sum of Rs.1,00,000/- was awarded which is not payable. In that way the claimants

are entitled to get additional compensation of Rs.14,200/-. The claimants shall be entitled to recover this additional compensation with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization.

The appeal is allowed partly with cost. The amount be apportioned among both the claimants equally.

(H.S. MADAAN)
JUDGE

May 08, 2023
p.singh

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