

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****107****CR-5771-2017 (O&M)****Date of Decision : 27.11.2024**

New India Assurance Co. Ltd.

....Petitioner

VERSUS

Sunita Rani and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vinod Gupta, Advocate for the petitioner.

Mr. Vikas Arora, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

1. Present revision petition has been preferred by the petitioner-Insurance Company impugning the order dated 27.04.2017 passed by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal') whereby the Insurance Company has been directed to deposit the amount.

2. The brief facts to be noticed are that an accident took place on 18.06.2010 involving two vehicles i.e. Tata Sumo bearing registration No.HR-55-JT-7613 (hereinafter referred to as the 'offending vehicle') being driven by Sandeep Sharma and Maruti car make Zen bearing registration No.PB-42-B-3950, which was being driven by Jaswinder Singh (deceased). Two persons lost their lives in the said accident. The Tribunal vide award dated 09.05.2012 has awarded the same amount of compensation for the death of both the deceased, namely, Jaswinder Singh and Ravi Kumar.

Claimant – Baljeet Kaur preferred FAO-5803-2012 while Sandeep Sharma

(driver of the offending vehicle) preferred FAO Nos.3363 and 3364 of 2012 and Sandeep Rathi (owner of the offending vehicle) preferred FAO Nos.4261, 4292 of 2012 and FAO No. 2056 of 2013, which were all disposed off vide order dated 05.11.2014 [2015(1) PLR 500]. The deceased in the said case, namely, Jaswinder Singh, was a student of 4th Semester of B.Tech in Bhai Gurdas Institute of Engg. and Technology, Sangrur. This Court while deciding the aforesaid appeals assessed the income of the deceased Jaswinder Singh as Rs.8,000/- per month. A deduction of 50% towards personal expenses of the deceased and a multiplier of '18' was applied. Rs.50,000/- was awarded towards loss of love and affection while an amount of Rs.25,000/- each was awarded towards funeral expenses/last rites and loss of estate. The total compensation assessed was Rs.9,64,000/- and interest @ 7.5% per annum was also awarded on the enhanced amount of compensation. Two appeals were also filed in the present case : one (FAO-7191-2015) by claimant – Sunita Rani; and the other (FAO-4225-2013) by Sandeep Sharma i.e. driver/owner of the offending vehicle.

3. Learned counsel for the parties are not in a position to dispute that the deceased in the present case was also identically situated as he was also a student of 4th Semester of B.Tech in Bhai Gurdas Institute of Engg. and Technology, Sangrur and was 20 years of age. This Court vide order dated 22.03.2016 disposed off both the appeals i.e. FAO-4225-2013 filed by driver/owner of the offending vehicle and FAO-7191-2015 filed by the claimants by passing the following order:

“ 1. *Learned counsel are agreed that the present cases are covered by the decision of this Court in Sandeep Sharma v. Baljeet Kaur and others reported as 2015(1) PLR 500.*

In the circumstances the present appeals are disposed of in the same terms as in Sandeep Sharma v. Baljeet Kaur and others reported as 2015(1) PLR 500.”

4. The claimants filed execution petition being EXE-261-2016 in which the Insurance Company was directed to deposit the amount vide order dated 27.04.2017. Aggrieved by the same, present revision petition has been filed.

5. Learned counsel for the petitioner-Insurance Company would contend that order dated 22.03.2016 would be limited to the extent that the Insurance Company is liable to pay the amount, however, the enhancement cannot be held to have been made in the present case by this Court as enhancement has to be made on the basis of the facts of each case.

6. *Per contra* learned counsel for respondent No.1 would contend that both the deceased in FAO-5803-2012, which was disposed off vide order dated 05.11.2014 and FAO-7191-2015 and FAO-4225-2013 were identically situated and were both students of 4th Semester Engineering in the same college. The deceased in FAO-5803-2012, which was disposed off on 05.11.2014, was 18 years of age and the deceased in the present case was 20 years of age. It is further the contention that being identically situated the case was disposed off by this Court vide order dated 22.03.2016 in terms of

the order passed in *Sandeep Sharma vs. Baljeet Kaur & Ors.* [2015(1) PLR 500]. It is further the contention that the said order was passed in the presence of the same very counsel who did not raise any objection at that point of time and is now wanting a rehearing of the said case in the present revision petition.

7. Heard.
8. Deceased in the present case i.e. Ravi Kumar and deceased – Jaswinder Singh – in FAO-5803-2012, which was decided by this Court on 05.11.2014 [2015(1) PLR 500], were studying in the same college and were students of B.Tech 4th Semester in Bhai Gurdas Institute of Engg. and Technology, Sangrur. Ravi Kumar was 20 years of age and Jaswinder Singh was 18 years of age. This Court vide order dated 05.11.2014 assessed income of deceased – Jaswinder Singh as Rs.8,000/- per month and enhanced the compensation as noted below :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.8,000/-
2	Deduction – 50%	[Rs.8,000 – 4,000] = Rs.4,000/-
3	Annual income	[Rs.4,000 x 12] = Rs.48,000/-
4	Multiplier of 18	[Rs.48,000 x 18] = Rs.8,64,000/-
5	Loss of love and affection	Rs.50,000/-
6	Funeral expenses	Rs.25,000/-
7	Loss of estate	Rs.25,000/-
	Total Compensation	Rs.9,64,000/-
	Interest	7.5% per annum

9. It was also held that the Insurance Company is liable to pay the amount of compensation, however, the Insurance Company was granted

recovery rights. FAO-4225-2013 and FAO-7191-2015 were decided by a co-ordinate Bench vide order dated 22.03.2016 and relying upon the judgment in *Sandeep Sharma vs. Baljeet Kaur and Others* [2015(1) PLR 500] disposed off the appeals in the same terms. It is apt to notice that the counsel representing the Insurance Company before this Court in the above-noted FAOs was Mr. Vinod Gupta, Advocate who is now representing the petitioner-Insurance Company. The order was passed in the presence of the counsel when the appeals were disposed off vide order dated 22.03.2016 and no argument was raised to the contrary. Both the deceased were identically situated and this Court vide order dated 22.03.2016 disposed off the appeals in terms of the judgment in *Sandeep Sharma vs. Baljeet Kaur and Others* [2015 (1) PLR 500]. Learned counsel for the petitioner has not been able to draw any distinction between the two cases except for arguing that the enhancement has to be made on the basis of facts of each case. There is not even a minor difference between the two cases in so far as the age of the deceased in both cases and their education qualifications are concerned. That being so, it does not lie in the mouth of the Insurance Company to challenge the order dated 24.04.2017 passed by the Executing Court on the ground that the claimants are not entitled to the enhanced amount. Having chosen not to challenge the order dated 22.03.2016, the Insurance Company cannot be permitted to reopen the case before the Executing Court or before this Court in the present revision petition.

10. In view of the above, I do not find any merit in the present revision petition which is accordingly dismissed. Pending applications, if any, also stand disposed off.

27.11.2024
jk

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO