

Neutral Citation No. 2024:PHHC:048173

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
138

FAO-1251-1991
Date of Decision:09.04.2024

Rajbala and others
.... Appellants

Vs

Subhash Chander and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Surinder Gandhi, Advocate for the appellants.

None for respondents No. 1 and 2.

SUVIR SEHGAL, J. (ORAL)

1. By way of instant appeal filed under the Motor Vehicles Act, 1988, legal heirs of deceased Ramesh have approached this Court, claiming enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short 'the Tribunal'), Bhiwani, vide award dated 11.09.1991.

2. Brief facts may be noticed. Ramesh, aged 27 years, who was going on a cycle was hit by a truck bearing No. HYW-7726 on 01.08.1990 and he succumbed to injuries. His widow, three minor children and parents filed a petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.4 Lacs, which was accepted and the Tribunal awarded an amount of Rs.1,45,000/- along with costs and interest @ 12% p.a. from the date of filing of the petition. Award was passed against all the respondents and was

ordered to be satisfied by the Insurance Company.

3. As there is no representation on behalf of the Insurance Company-respondent No.3, on the asking of the Court, Mr. Suvir Dewan, Advocate has put in appearance on behalf of the respondent No.3 and has assisted the Court.

4. I have heard counsel for the parties and examined the record with their able assistance.

5. On the basis of evidence led by the parties, Tribunal has returned a finding that the accident took place due to rash and negligent driving of the truck driver, Subhash Chander, respondent No.1, who is facing trial in a criminal case. In their evidence before the Tribunal, the claimants produced ocular evidence to the effect that the deceased was cultivating land as well as running a shop and earning Rs.3,000/- per month. Documentary evidence was produced to show that he had a licence from Municipal Committee, Bhiwani Khera and some bills were produced to establish payments of octroi. The Tribunal came to the conclusion that the deceased was a petty shopkeeper and was earning Rs.1,000/- per month. The version of the claimants that the deceased was cultivating land, was not accepted. After deducting Rs.250/- per month from the monthly income of the deceased for his own expenses, the Tribunal determined the monthly dependency at Rs.750/- per month i.e. Rs.9000/- per annum. Applying the multiplier of 16, the Tribunal came to the conclusion that the total dependency works out to Rs.1,44,000/- Awarding Rs.600/- on account of funeral expenses, the Tribunal passed the award as noticed above.

6. In ***Kirti and another Versus Oriental Insurance Company Limited***, (2021) 2 SCC 166, Supreme Court has held that as the family of the deceased consisted of four dependents, appropriate deduction for personal expenses ought to be 1/4th. Therefore, this Court is of the view that no error can be found with the dependency determined by the Tribunal. However, insofar as the multiplier is concerned, the same deserves to be increased and the appropriate multiplier to be applied is 17 as the deceased was 27 years of age. The claimants are also entitled to 40% increase for future prospects as has been held by the Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi***, 2017(16) SCC 680. Insofar as the conventional heads are concerned, the claimants are granted Rs.48,000/- per head following the judgment of the Supreme Court in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Ors.***, 2018(18) SCC 130.

7. Without interfering with the rate of interest awarded by the Tribunal, compensation is ordered to be enhanced as indicated in preceding paragraph and the award of the Tribunal is modified accordingly.

8. Appeal is disposed of.

9. Pending application(s), if any, stand disposed of.

09.04.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No