

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

FAO No. 2236 of 2000 (O&M)

Date of decision : November 17, 2018

Santosh and others

.....Appellants

Versus

Virender Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajneesh Chadwal, Advocate for the appellant.

Mr. Sandeep Suri, Advocate for respondent No. 3.

Mr. Neeraj Khanna, Advocate for respondent No. 6.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal') on account of death of Musadi Lal vide award dated 07.02.2000.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Musadi Lal on 20.11.1990 in a motor vehicle accident caused due to driving of the offending vehicle jeep bearing registration No.DL-8CA/6514 by respondent No.2 in a rash and negligent manner. It was averred that Musadi Lal alongwith other seven persons was travelling in a jeep, driven by Raj Kumar, from Malra to Mahendergarh. When the jeep reached near octroi post Malra, truck bearing No. HR-34/5570 driven rashly and negligently by respondent No. 2, came from Riwasa side. Both the vehicles collided and the accident took place. As a result thereof, Musadi

Lal died at the spot. The deceased, aged 40 years at the time of the accident was stated to be tailor and earning a sum of ₹6,000/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 20.11.1990 as the drivers of both the offending jeep and truck were equally negligent in driving their respective vehicles. Appellants were, thus, held entitled to receive compensation from the drivers, owners and insurers of both the vehicles. Both vehicles were proved to be validly insured without there being any breach of the insurance policies, therefore, the respective insurance companies were held liable. Learned Tribunal awarded a sum of ₹1,80,000/- with interest at the rate of 12% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹1,500/- per month. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 15 was applied as the deceased was 40 years old at that time.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding the income of the deceased assessed as ₹1,500/- per month by the learned Tribunal, however, in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 25% should be afforded. It is submitted that though multiplier of 15 has been correctly applied, compensation under the conventional heads is not afforded. It is, thus, prayed that compensation awarded to the claimants be reworked

accordingly.

Learned counsel for the respondents No. 3 and 6 while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 07.02.2000 be upheld.

Heard learned counsel for the parties.

There is no dispute that Musadi Lal lost his life in a motor vehicle accident, which took place on 20.11.1990 caused due to the rash and negligent driving of both the offending jeep and the truck. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 40 years old at the time of the accident.

There is no dispute regarding the income of the deceased to be ₹1,500/- per month as assessed by the learned Tribunal. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 25% (₹375/-) has to be afforded as the deceased was 40 years old at the time of accident, which takes the income of the deceased to ₹1875/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/4th is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹1406/-(1875-469). Applying a multiplier of 15, dependency of the claimants is, therefore, assessed as ₹2,53,080/- (₹1406x12x15). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of

loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others (Civil Appeal No. 9581 of 2018), appellants No. 2 to 4 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹4,43,080/- detailed as under:-

Loss of dependency (₹1406x12x15)	₹2,53,080/-
Loss of consortium	₹40,000/-
Loss of parental consortium (40,000x3)	₹1,20,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹4,43,080/-

Respondent No. 3 – National Insurance Company Limited and respondent No. 6 – The Oriental Insurance Company Limited are jointly liable to pay the compensation as assessed above to the extent of 50% each.

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

November 17, 2018
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No