

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

FAO No. 3406 of 2004 (O&M)

Date of decision : December 19, 2018

Smt. Kusumlata and others

.....Appellants

Versus

Bhup Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Yadav, Advocate for the appellants.

Mr. R.N. Singhal, Advocate for respondent No. 5.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as the 'Tribunal') on account of death of Dalbir Singh vide award dated 13.05.2004.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, children and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Dalbir Singh on 02.03.2003 in a motor vehicle accident caused due to driving of the offending vehicle jeep bearing registration No. HR-10B-8825 by respondent No.1 in a rash and negligent manner. It was averred that Dalbir Singh alongwith his son Arun was coming from Bahalgarh after attending some personal work on his motorcycle. When they reached near gate of the truck union, offending vehicle i.e. jeep bearing registration No. HR-10B-8825 came from opposite side and struck against the motorcycle. As a result thereof, Dalbir Singh received grievous injuries

and succumbed to them on the way to the hospital.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 02.03.2003 due to rash and negligent driving of the offending jeep bearing registration No. HR-10B-8825 by respondent No. 1. Learned Tribunal awarded a sum of ₹8,49,248/- with interest at the rate of 6% 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 ₹8,883/- per month. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 13 was applied as the deceased was 42 years old at that time. Additionally, a sum of ₹5,000/- on account of loss of consortium was awarded and a sum of ₹2,500/- on account of loss of estate besides a sum of ₹2,000/- on account of funeral expenses.

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

Learned counsel for the appellant submits that learned Tribunal has wrongly assessed the income of the deceased as ₹8,883/-. It is submitted that 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**, loss of future prospects at the rate of 30% should be afforded. It is further submitted that multiplier of 14 instead of 13 has to be applied and deduction of 1/4th instead of 1/3rd should be effected, keeping in view the number of dependants. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company 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 13.05.2004 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Dalbir Singh lost his life in a motor vehicle accident, which took place on 02.03.2003 caused due to the rash and negligent driving of jeep bearing registration No. HR-10B-8825 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 42 years old at the time of the accident.

Income of the deceased has been assessed as ₹8,883/- per month by the learned Tribunal. Dalbir Singh (deceased) was admittedly working as Assistant Manager with Food Corporation of India as a regular employee. He was in receipt of salary of ₹14,757/- out of which income tax to the tune of ₹2,500/- was being deducted. Effective salary of the deceased was, thus, ₹12,257/-. 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 30% (₹3677/-) has to be afforded, as the deceased was 42 years old at the time of accident, which takes income of the deceased to ₹15,934/- 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 $\frac{1}{4}^{\text{th}}$ instead of $\frac{1}{3}^{\text{rd}}$ is to be applied as number of dependants is five (5), thereby rendering income of the deceased to be ₹10,623/-(15,934-5311).

Applying a multiplier of 14 instead of 13, dependency of the claimants is, therefore, assessed as ₹17,84,664/- (₹10,623x12x14). 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 and 3 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium and parents of the deceased to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹20,14,664/- detailed as under:-

Loss of dependency (₹10,623x12x14)	₹17,84,664/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium (40,000 x 2)	₹80,000/-
Loss of filial consortium (40,000 x 2)	₹80,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹20,14,664/-

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 instead of 6% on the compensation awarded from the date of filing of the petition till realisation.

Apportionment 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.

December 19, 2018

(Lisa Gill)
Judge

rts

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