

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4240 of 2007 (O&M)
Date of decision:20.11.2018.

Smt. Raj Kumari and another

...Appellants

Versus

Sat Pal and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Kashika Kaur, Advocate for
Mr. Gaurav Chopra, Advocate for the appellants.
Mr. Vinod Chaudhri, Advocate for respondent No.4/Insurance
Company.

LISA GILL, J.

CM No.20554-CII of 2007

Heard.

For the reasons mentioned in the application and the arguments
addressed, delay of 40 days in filing of the appeal is condoned.

Application is allowed.

FAO No.4240 of 2007

This appeal has been filed by the claimants seeking
enhancement of the compensation awarded to them by the learned Motor
Accident Claims Tribunal, Panchkula ('Tribunal' for short) vide award dated
14.05.2007 on account of death of Man Singh alias Mannu in a motor vehicle
accident on 09.12.2003.

The claimants, who are mother and sister of the deceased, filed
a petition under Section 166 of the Motor Vehicles Act, seeking
compensation on account of death of Man Singh alias Mannu due to injuries
received in a motor vehicle accident which took place on 09.12.2003. FIR
No.334 dated 10.12.2003 was registered under Sections 279 and 304-A IPC

at Police Station Chandimandir against respondent No.1. It was pleaded that the deceased at the time of his death was employed with M/s Micro Link Nets as Senior Manager, earning Rs.6000/- per month. He was 22 years old at the time of accident. Compensation was thus prayed for.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

Learned Tribunal further concluded the deceased to be 22 years old at the time of his death and assessed his income as Rs.6000/- per month. Deduction of 1/3rd was effected towards personal expenses. Multiplier of 13 was applied. Thus, total dependency was assessed at Rs.6,24,000/- (4000x12x13). A sum of Rs.10,000/- was awarded on account of last rites. Thus, claimants were held entitled to a total compensation of Rs.6,34,000/- along with interest @ 6% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants submits that there is no dispute regarding the income of the deceased as Rs.6000/- as assessed by the learned Tribunal. However, no increment has been afforded on account of future prospects. Multiplier of 13 has wrongly been applied. However, learned counsel for the appellants submits that compensation awarded under conventional heads may be reworked in terms of the judgments of Hon'ble the Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 and Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others, in Civil Appeal No.9581 of

2018 decided on 18.09.2018. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the respondents, while refuting the arguments of learned counsel for the appellants, prays for upholding the award passed by learned Tribunal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that Man Singh alias Mannu lost his life due to injuries received in a motor vehicle accident which took place on 09.12.2003 due to the rash and negligent driving of the offending vehicle by respondent No.1. He was 22 years old at that time. There is no dispute regarding the income of the deceased as assessed by the learned Tribunal at Rs.6000/- per month. In view of the judgment of Hon'ble the Supreme Court in the case of Pranay Sethi and others (supra), 40% increase in income has to be afforded on account of future prospects. Deduction of 1/3rd towards personal expenses has rightly been effected. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that the multiplier is to be applied with reference to the age of the deceased. The deceased was admittedly 22 years old at the time of the accident. Therefore, multiplier of 18 instead of 13 is required to be applied. In view of the judgment of Hon'ble the Supreme Court in the case of Magma General Insurance Company Ltd. (supra), appellants are entitled to Rs.40,000/- each on account of loss of consortium. The appellants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs. 10,000/- afforded by the learned Tribunal towards funeral expenses.

Appellants-claimants are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	Heads of Claim	Rupees
1.	Income	6000/- p.m. i.e., 72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000+28,800 (72,000x40%) = 1,00,800/-
3.	Income after deduction of 1/3 rd on account of personal expenses	1,00,800–33,600 (1,00,800/3) = 67,200/-
4.	Total dependency after applying a multiplier of 18	(67,200 x18) =12,09,600/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to the appellants @ 40,000/- (40,000x2)=80,000/-	80,000/-
Grand Total		13,19,600/-

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 entire 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 award dated 14.05.2007, present appeal is disposed of.

(LISA GILL)
JUDGE

20.11.2018
Ishwar

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