

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

206

**FAO-1150-2012 (O&M)
Date of Decision : 20.9.2018**

Samina and another

....Appellants

vs.

Sehrun and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Shiva Khurmi, Advocate
for the appellants.

Mr. Kulwinder Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 9.11.2011 passed by Motor Accident Claims Tribunal, Nuh (Mewat) awarding compensation of Rs. 3,46,000/- alongwith interest at the rate of 6% per annum on account of death of Warish in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Counsel for the appellants has argued that as per the provisions of the Minimum Wages Act in Haryana the minimum wages at the time of death was Rs. 4348/- instead of Rs.4000/- which is taken by the Tribunal. Learned counsel for the insurance company is not in a position to deny this fact. Consequently, income of the deceased has to be taken as Rs. 4,348/- say Rs.4400/-.

Second argument raised by the learned counsel for the appellants is that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospects has to be granted. Learned counsel for the insurance company is not in a position to deny this fact. Consequently, I award 40% future prospects.

Third argument raised by the learned counsel for the appellants is that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298***, the multiplier of 18 has to be applied instead of 14. Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 18 has to be applied.

Counsel for the appellants has further pointed out that in the judgment passed in the matter of “***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***” in ***Civil Appeal No. 9581 of 2018*** decided on 18.9.2018, the Supreme Court after discussing Pranay Sethi's case (supra) had given Rs.40,000/- each to the father and unmarried sister of an unmarried deceased boy on the ground of loss of filial consortium. Counsel for the appellants states that the Tribunal awarded only Rs.10,000/- for funeral expenses. Learned counsel for the insurance company is not in a position to deny this fact. Consequently, in view of the judgment of Magma General Insurance Company Limited, I award Rs.1,00,000/- more to the claimants.(Rs.5000/- more for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- to each to claimant) for filial consortium.

Counsel for the appellants has further pointed out that in the judgment of Magma General Insurance Company Limited (supra) the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

Out of the enhanced amount only Rs.40,000/-be given to the appellant No.2 and rest be given to the appellant No.1. Rest of the Award shall remain same.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

20.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No