

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

**FAO No.3522 of 2012**

**Date of Decision: 19.11.2018**

**Smt. Annu Devi and others        .....Appellants**

**Vs**

**Pritam and others                        ....Respondents**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present:Mr. Amit Jain Advocate  
for the appellants.

Mr. D.K. Prajapati, Advocate for  
Mr. R.S. Madan, Advocate  
for respondent No.3/Insurance Company.

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**RAJ MOHAN SINGH, J.**

[1].        This appeal has been preferred by the appellants for enhancement of compensation against the award dated 29.02.2012 passed by the Motor Accident Claims Tribunal, Gurgaon (now Gurugram) (hereinafter to be referred as 'the Tribunal').

[2].        The accident in question took place on 16.09.2009 when Rajesh (deceased) along with one Anil Kumar was riding motorcycle bearing registration No.HR-26AU-2012 and were coming from IMT, Manesar. When they crossed IMT chowk, the

offending vehicle i.e. Dumper being driven by respondent no.1 in a rash and negligent manner hit the motorcycle in which Rajesh was died. Anil Kumar and one Parveen Kumar received grievous injuries. The deceased was 27 years of age at the time of accident and was working as an agent of Life Insurance Corporation.

[3]. The Tribunal held that the accident in question took place due to rash and negligent driving by driver of the offending vehicle. The Tribunal assessed the monthly income of deceased to be Rs.4000/- and after assessing material on record awarded an amount of Rs.5,64,068/- as compensation. Apportionment of compensation was also made as per entitlement of the claimants.

[4]. Learned counsel for the appellants submitted that the appellants are aggrieved on the count that the monthly income of the deceased as Rs.4000/- per month assessed by the Tribunal is on the lower side.

[5]. Secondly, learned counsel submitted that in view of **National Insurance Co. Limited vs. Pranay Sethi, 2017 SCC 1270** the deceased was entitled for future prospects in his career. He was 27 years of age at the time of accident, therefore, the ratio of aforesaid judgment would make him

entitle to the increase of 40% in his earning towards future prospects.

[6]. Thirdly, learned counsel submitted that in view of **National Insurance Co. Limited vs. Pranay Sethi's** case (supra) the assessment towards conventional heads to the tune of Rs.70,000/- is to be added while computing total amount of compensation. Fourthly, deduction to the tune of 1/3<sup>rd</sup> is claimed to be illegal in view of composition of family of the deceased .

[7]. Learned counsel relied upon the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram & Ors. (SC) Civil Appeal No. 9581 of 2018** for enhancement in compensation on the basis of Parental and Filial consortium in which the Hon'ble Apex Court while relying upon the constitutional bench judgment of **National Insurance Co. Ltd. vs. Pranay Sethi's case (supra)** has awarded an amount of Rs.40,000/- towards Loss of Filial consortium.

[8]. On the other hand, leaned counsel appearing on behalf of the Insurance Company submitted that the deceased was working as an LIC Agent. The Tribunal has rightly awarded the amount of compensation to the claimants considering the nature of work done by the deceased.

[9]. Learned counsel by relying upon decision rendered by

the Co-ordinate Bench of this Court in FAO No.5570 of 2014 titled '*Smt. Bala @ Rajbala and others vs. Sumer Singh and others*' submitted that the Constitutional Bench judgment rendered by the Hon'ble Apex Court in **National Insurance Co. Ltd. vs. Pranay Sethi's case (supra)** was followed and assessment towards 'Loss of Filial' was not made.

[10]. I have considered the submissions made by learned counsel for the parties.

[11]. The deceased was 27 years of age at the time of accident and was working as an LIC Agent. The Tribunal has assessed the monthly income of the deceased as Rs.4,000/-. Deceased was working as an LIC Agent, therefore, considering the nature of work and age of the deceased, his monthly income is taken to be Rs.6,000/- which has not been opposed by the learned counsel for the Insurance Company. Keeping in view his age, increase on account of future prospects to the tune of 40% in view of **National Insurance Co. Limited vs. Pranay Sethi's** case (supra) is to be made to the monthly income of the deceased. In this way the monthly income of the deceased would come out to be Rs. 8400/- (6000 + 2400) after addition of 40% towards future prospects.

[12]. In view of composition of family of the deceased, deduction to the tune of 1/4<sup>th</sup> i.e. Rs.2100/- in the monthly

income of the deceased can be applied towards his personal expenses. In this manner, the monthly dependency would come out to be Rs.6300/- (8400 -2100) i.e. Rs.75,600/- per annum.

[13]. The deceased was aged about 27 years at the time of accident. In view of ratio laid down in **Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC)** on the basis of age of the deceased, multiplier of 17 is to be applied. In this way assessment towards dependency comes out to be Rs.12,85,200/-. (75,600 x 17). An Additional amount of Rs.70,000/- can be assessed towards loss of estate, loss of consortium and funeral expenses in view of **National Insurance Co. Limited vs. Pranay Sethi,'s** case (supra). In view of **Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram & Ors.'s** case (supra) an amount of Rs. 40,000/- each on account of loss of filial and parental consortium is awarded to the parents and the minor daughter of the deceased. In this way, total amount of compensation comes out to be Rs.14,75,200/- (12,85,200 + 70,000 + 1,20,000).

[14]. The enhanced amount i.e. Rs.9,11,132/- (14,75,200 – 5,64,068) would carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount. Apportionment as ordered by the Tribunal shall remain the

same.

[15]. In view of aforesaid modification, the appeal is accordingly disposed of.

November 19, 2018

(RAJ MOHAN SINGH)  
JUDGE

*Atik*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No