

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

**F.A.O. No. 1644 of 2013 (O&M)
Date of Decision: 29.10.2018**

Sukhwant Kaur and others

.....Appellants.

Versus

Maresh Kumar and another

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Harsh Manocha, Advocate
for Mr. Ajay Kumar Sharma, Advocate
for the appellants.

Mr.Punit Jain, Advocate
for respondent no.2.

Service of respondent no.1 dispensed
with vide order dated 06.08.2018.

LISA GILL, J.

Appellant-claimants, seeks enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short 'MACT'), vide impugned award dated 22.12.2012, on account of death Nirmal Singh.

As per averments in the claim petition, on 08.02.2011, Nirmal Singh along with Lakhvir Singh son of Karnail Singh was going from village Rohta to Village Lubana Teku, while driving car bearing registration no. PB-11-G-0541, on the left hand side of the road at a very slow speed. Lakhvir Singh was sitting on the front left seat of the car. At about 08.15.p.m., when their car was 100 Sq. yards behind the bridge of canal of

village Rohti Chhana, the offending vehicle driven by respondent no.1-Mahesh Kumar in a rash and negligent manner hit against the car driven by Nirmal Singh (deceased). As a result thereof, the car over turned twice and many persons collected at the spot. Lakhvir Singh brought Nirmal Singh to Civil Hospital, Nabha, in a very critical condition but the doctors declared him dead. FIR No. 18 dated 09.02.2011, under Sections 279, 304-A, 427 IPC, Police Station Sadar Nabha, District Patiala, was registered against respondent no.1, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Mahesh Kumar. The said finding of the learned tribunal has attained finality.

The learned tribunal awarded a total sum of ₹5,38,400/- to the claimants. Income of the deceased was assessed as ₹4000/- per month. Multiplier of 16 was applied by the learned tribunal. A sum of ₹10,000/- was awarded on account of loss of consortium and ₹10,000/- was awarded towards funeral expenses.

Learned counsel for the appellants submits that increase of 40% should be afforded on account of future prospects in view of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**. It is further submitted that meagre compensation has been awarded under the conventional heads. It is, thus, prayed that compensation awarded to the appellants be enhanced in terms of the abovesaid judgements.

Learned counsel for the respondent-Insurance Company, while

refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any further enhancement. Learned counsel prays for dismissal of the appeal.

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

Learned counsel for the appellants is unable to point out any evidence on record to indicate that the deceased was earning an income more than what has been assessed by the learned tribunal. Thus, income of the deceased has been rightly assessed as ₹4000/- per month by the learned tribunal. However, increase in income on account of future prospects at the rate of 40% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in *Pranay Sethi's* case (Supra). Multiplier of 16 has been correctly applied by the learned tribunal.

In terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**, 1/4th deduction on account of personal expenses is to be applied keeping in view the number of dependants i.e. four.

Keeping in view the parameters referred to hereinbefore and in view of the decisions of the Hon'ble Supreme Court in **Pranay Sethi** (supra), **Sarla Verma** (Supra) and **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, Civil Appeal no. 9581 of 2018, arising out of SLP (Civil) No. 3192 of 2018, decided on 18.09.2018.**, compensation towards the claimants on account of death of Nirmal Singh is thus re-worked as under:-

1.	Total income of deceased	₹4000/- p.m
2.	Deduction of 1/4th on account of personal expenses	₹4000/- (₹4000*1/4=₹1000/-) = ₹3000/-
3.	Total income after addition of future prospects at the rate of 40%	₹3000/- (₹3000+ ₹1200/-) i.e. ₹4200/-
4.	Annual dependency after applying multiplier of 16	₹4200/- x 12 x 16= ₹8,06,400/-
5.	Spousal consortium	₹40,000/-
6.	Loss of estate and funeral expenses	₹50,000/-
7.	Filial consortium i.e. ₹40,000/- each to parents of the deceased	₹80,000/-
8.	Parental consortium to children of the deceased @ ₹40,000/- each	₹80,000/-
	Total Compensation =	₹10,56,400/-

Claimants shall be entitled to interest on the compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall stand deducted.

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.

29.10.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.