

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

**F.A.O. No. 10156 of 2014 (O&M)
Date of Decision: 11.12.2018**

Urmila Rana and others

.....Appellants.

Versus

Tarlok Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. M.S.Sidhu, Advocate
for the appellants.

Mr. Rahul Rampal, Advocate
for respondents no.1 and 2.

Mr. Vinod Chaudhri, Advocate
for respondent no.3.

LISA GILL, J.

Appellant-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'tribunal'), vide impugned award dated 22.02.2013, on account of death Varinder Singh Rana.

Brief facts necessary for the adjudication of the case are that Varinder Singh Rana, working as manager in Nitco Roadways Private Limited, Transport Nagar Ludhiana, on 25.09.2008, was going towards Nitco Roadways Private Limited, Branch Sahnewal on his scooter bearing registration no. PB-10-AZ-8756. When, he reached near boundary of village Pawa, three-wheeler bearing registration no. PB-10-CJ-1959, PB-10-C(T) 4949 driven by respondent-Tarlok Singh came from Ludhiana side in a rash

and negligent manner. While crossing the scooter of the deceased, the three-wheeler turned towards the right side and hit the scooter of the deceased. As a result thereof, deceased suffered serious injuries and fell on the road. After seeing the deceased in a serious condition, Tarlok Singh left the three wheeler at the spot and ran away from the spot. Vikram Singh, son of the deceased took the deceased to Satguru Partap Singh Apollo Hospital, where he was declared brought dead. FIR No.181 of 2008, under Sections 279, 304-A IPC was registered at Police Station Sahnewal, against respondent no.1-Tarlok Singh, 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-Tarlok Singh. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹11,230/- per month. Multiplier of 12 was applied by the learned tribunal. A sum of ₹5,000/- each was awarded on account of loss of consortium and funeral. Deduction of 1/3rd was applied. Learned tribunal awarded a sum of ₹10,90,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

Learned counsel for the appellant argues that multiplier of 13 should have been applied instead of 12 as the deceased was 50 years and 5 months old at the time of the accident. Moreover, increase of 10% is required to 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 which should be enhanced.

Learned counsel for the respondents, 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 perused the file and heard learned counsel for the Insurance Company.

Learned counsel for the appellants is unable to point out any evidence on record to indicate that the deceased was earning an income higher than what has been assessed by the learned tribunal. Thus, income of the deceased assessed as ₹11,230/- per month by the learned tribunal is upheld. The deceased was admittedly 50 years and 5 months old at the time of the accident. The Hon'ble Supreme Court in case of **Shashikala and others vs. Gangalakshamma and another, 2015(2) RCR (Civil) 510** held that where the age of the deceased was 45 years, 5 months and 28 days at the time of accident, age of the deceased has to be taken as 45 years. Therefore, the age of the deceased in the present case is taken as 50 years and multiplier of 13 is applied instead of 12 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**. Future prospects at the rate of 10% are required to be afforded in view of the judgement of the Hon'ble Supreme Court in **Pranay Sethi 's case (Supra)**. Deduction of 1/ 3rd applied by the learned tribunal is maintained.

The claimants are entitled to ₹15,000/- for funeral expenses

instead of ₹5000/-, besides ₹15,000/- for loss of estate. Claimant-appellants in terms of the judgement of Hon'ble Supreme Court in **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.**,are entitled to ₹40,000/- each for loss of parental consortium and spousal consortium.

Compensation towards the claimants on account of death of Varinder Singh Rana is thus re-worked as under:-

1.	Total income of deceased	₹11,230/- p.m
2.	Deduction of 1/ 3 rd on account of personal expenses	₹11,230/- (₹11,230*1/3=₹3743/-) = ₹7487/-
3.	Total income after addition of future prospects at the rate of 10%	₹7487/- (₹7487/-+ ₹749/-) i.e. ₹8236/-
4.	Annual dependency after applying multiplier of 13	₹8236/- x 12 x 13= ₹12,84,816/-
5.	Parental consortium to children of the deceased @ ₹40,000/- each	₹80,000/-
6.	Spousal consortium	₹40,000/-
7.	Funeral expenses	₹15,000/-
8.	Loss of estate	₹15,000/-
	Total Compensation =	₹14,34,816/-

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. Finding of learned tribunal regarding recovery rights, is maintained.

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.

11.12.2018
s.khan

[LISA GILL]
Judge

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