

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

**F.A.O. No. 1969 of 2014 (O&M)
Date of Decision: 14.11.2018**

Manoj Kumar

.....Appellant.

Versus

Ashok and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Anshuman Dalal, Advocate
for the applicant-appellant.

Mr.S.S.Kharb, Advocate
for respondent no.1.

Ms. Vandana Malhotra, Advocate
for respondent no.3.

Respondent no.5 *ex parte* vide order dated 05.11.2015.

Mr. Nikhil Chopra, Advocate
for respondent no.6.

LISA GILL, J.

Appellant-claimant, seeks enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak (for short 'MACT'), vide impugned award dated 26.02.2013, on account of death of his father-Maha Singh in a motor vehicle accident.

Undisputed facts are that Maha Singh died due to injuries caused in the motor vehicle accident which took place on 07.12.2011 due to the rash and negligent driving of the offending vehicle by respondent no.1-Ashok. Appellant is the adopted son of the deceased-Maha Singh. Deceased

was 83 old at the time of his death and an ex-servicemen receiving a sum of ₹22,996/- per month as pension. It is further not in dispute that the appellant, who is the adopted son of the deceased, is himself serving the Indian Army. He is not dependent upon the deceased. The learned tribunal in this situation awarded a sum of ₹50,000/- under Section 140 of the Motor Vehicles Act.

Learned counsel for the appellant is unable to deny that the present appellant is serving the Indian Army and was not dependent upon the deceased at the time of the accident. However, being a legal representative, the appellant is indeed entitled to compensation on account of funeral expenses, loss of estate and loss of parental consortium in terms of the judgments of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**, **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**. In view of the judgement of the Hon'ble Supreme Court in **Mrs. Hafizan Begum Vs. Md. Ikram Heque and others, 2007 (3) R.C.R (Civil) 691**, legal representatives are entitled to file a claim petition under Section 166 of the Motor Vehicles Act.

Thus, he is entitled to a total sum of ₹70,000/- i.e. ₹30,000/- on account of loss of estate and funeral expenses and ₹40,000/- on account of parental consortium.

Claimant 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

claimant shall stand deducted.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

14.11.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.