

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

FAO No. 2082 of 2014 (O&M)

Date of decision : September 27, 2018

Smt. Santosh Soni and others

.....Appellants

Versus

Shangara Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Kotla, Advocate
for the appellants.

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

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as the 'Tribunal') on account of death of Om Parkash Soni vide award dated 29.10.2013.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and children of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Om Parkash Soni in a motor vehicle accident caused due to driving of the offending vehicle bearing registration No. UP-30A-6465 by respondent No.1 in a rash and negligent manner. It was averred that on 19.12.2010, Om Parkash Soni (deceased) was going from Panipat to Sonapat in a bus. At Bahalgarh chowk when he alighted from the bus and was crossing the road opposite the petrol pump, offending vehicle driven by

respondent No.1 in a rash and negligent manner came from the side of Delhi and struck against the deceased who fell on the road and received multiple grievous injuries. Om Parkash Soni succumbed to his injuries on the spot. The deceased was stated to be 45/46 years of age at the time of the accident, earning ₹13,537/- per month from the business of goldsmith at Katabanji, Orissa. Compensation was claimed.

Claim petition was resisted by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether the accident in question resulting into death of Om Parkash took place on account of rash and negligent driving of vehicle bearing registration No. UP-30A-6465 by respondent No. 1 ? OPP
2. If issue No. 1 is proved, whether the petitioners are entitled to get compensation, if so, to what amount and from whom? OPP.
3. Whether respondent No. 1 was not holding a valid and effective driving licence at the time of accident and the insured violated the terms and conditions of the insurance policy as alleged? If so to what effect? OPR-3
4. Relief.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 19.12.2010 due to rash and negligent driving of the offending vehicle bearing registration No. UP-30A-6465 by respondent No. 1. Learned Tribunal awarded a sum of ₹13,60,196/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹13,537/- per month. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 11 was applied as the age of the deceased was taken to be 55 years at the

time of the accident. Additionally, a sum of ₹10,000/- on account of loss of consortium was awarded and a sum of ₹5,000/- on account of loss of estate besides a sum of ₹5,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding the income of the deceased assessed as ₹13,537/- per month by the learned Tribunal. It is submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 10% should be afforded. It is submitted that though multiplier of 11 has been correctly applied, compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellant submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. Thus, impugned award dated 29.10.2013 be upheld.

Heard learned counsel for the parties.

There is no dispute that Om Parkash Soni lost his life in a motor vehicle accident, which took place on 19.12.2010 caused due to the rash and negligent driving of vehicle bearing registration No. UP-30A-6465 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

There is no dispute regarding the income of the deceased to be

₹13,537/- per month as assessed by the learned Tribunal. Age of the deceased is assessed as 55 years, in view of the the date of birth of the deceased, mentioned as 11.07.1955 in the Income Tax record (Exs.P9 to P27). In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 10% (₹1354/-) is afforded in view of the age of the deceased (55 years), which takes the income of the deceased to ₹14,891/- per month. In view of guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/4th is to be applied as number of dependants is six (6), thereby rendering income of the deceased to be ₹11,168/-(₹14,891-3723) per annum. Applying a multiplier of 11, dependency of the claimants is, therefore, assessed as ₹14,74,176/- (₹11,168x11x12). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate besides the claimant widow being entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others** (Civil Appeal No. 9581 of 2018), appellants No. 2 to 6 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium.

Claimants are, thus, entitled to total compensation of ₹17,44,176/- detailed as under:-

Loss of dependency(₹11,168x11x12)	₹14,74,176/-
Loss of consortium to the wife	₹40,000/-
Loss of parental consortium to the five children (₹40,000x5)	₹2,00,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹17,44,176/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

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.

September 27, 2018

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(Lisa Gill)

Judge