

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

**FAO-4485-2013 (O&M)
Date of decision : 23.01.2018**

Smt.Nirmala Devi and others

... Appellant(s)

Versus

Subhash Chander and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Sumit Gupta, Advocate,
for the appellants.

Mr.Vishal Goel, Advocate,
for respondent No.3-Insurance Company.

AMIT RAWAL, J. (ORAL)

The present appeal has been preferred by the legal representatives of Ram Phal, who died in a motor accident occurred on 12.9.2011, for enhancement of compensation against the award passed by the Tribunal, whereby a compensation of ₹9,69,240/- along with interest @ 7.5 % per annum, had been awarded.

Mr.Sumit Gupta, learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹9,69,240/-, which is on lower side. The deceased was working as a Mason and was earning ₹20,000/- per month, but the Tribunal took the income of the deceased as ₹7,100/- per month. Moreover, no increase was made in the salary towards future prospects. The amount of ₹10,000/- towards loss of consortium and ₹5,000/- on account of funeral expenses is also too meager, thus, there is scope for enhancement.

On the other hand, Mr.Vishal Goel, learned counsel appearing

on behalf of respondent No.3-Insurance Company submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a scope of enhancement as the compensation to the tune of ₹9,69,240/- is on lower side. Accordingly, I take the income of the deceased as ₹85,200/- per annum (7,100/- per month) and provide 25% future prospects and apply a multiplier of '14', much less, deduction of 1/5th to assess the loss of dependency as ₹11,92,800/-. I will further add to it ₹70,000/- towards conventional heads i.e. loss of consortium, loss of estate and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in ***SLP (Civil) No.25590 of 2014*** titled as "***National Insurance Company Ltd. V/s Pranay Sethi and others***". In all the compensation payable shall be ₹12,62,800/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. The enhanced amount shall be distributed amongst the appellants-claimants equally. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

**(AMIT RAWAL)
JUDGE**

January 23, 2018
ramesh

Whether speaking/reasoned **Yes/ No**
Whether Reportable **Yes/ No**