

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

FAO No. 3998 of 2014 (O&M)

Date of decision : July 25, 2018

Meera Devi and others

.....Appellants

Versus

Jagdish and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Rajvinder Kaur, Advocate for
Mr. Gurinder Pal Singh, Advocate
for the appellants.

Mr. M.B. Jain, 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, Narnaul (hereinafter referred to as the 'Tribunal') on account of death of Kailash Chand vide award dated 06.11.2013.

Brief facts necessary for adjudication of the case are that the claimants, who are the widow and minor children of the deceased namely Kailash Chand, filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Kailash Chand on 14.07.2011 in a motor vehicle accident caused due to rash and negligent driving of the offending Scorpio bearing registration No. MH-15TRUK-506 (now bearing registration No. RJ-32UA-2725) driven by respondent No.1. FIR No. 174 dated 15.07.2011 under Sections 279, 304A IPC was registered at Police Station Mundawar in respect to the accident.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 14.07.2011 due to

rash and negligent driving of the offending Scorpio bearing registration No. RJ-32UA-2725 driven by respondent No. 1. This finding of the learned Tribunal has attained finality. Learned Tribunal awarded a sum of ₹6,62,600/- 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 ₹4,200/- per month. Deduction of 1/4th was effected. Multiplier of 17 was applied as the deceased was 30 years old at that time. Additionally, a sum of ₹10,000/- on account of loss of consortium was awarded besides a sum of ₹10,000/- on account of funeral expenses and last rites.

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

Learned counsel for the appellants submits that the deceased was admittedly 30 years old at the time of death. No compensation has been awarded on account of future prospects. It is, however, conceded 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**, compensation awarded under the conventional heads is required to be reworked. It is prayed that compensation awarded to the claimants be enhanced.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed and the impugned award dated 06.11.2013 be upheld.

Heard learned counsel for the parties and have gone through

the record with their able assistance.

There is no dispute that Kailash Chand as per certificate of Middle Examination Certificate (Ex.P8) was about 30 years old at the time of the accident which took place on 14.07.2011. There is no documentary evidence on record, to indicate the income earned by him. Accordingly, income of the deceased has been rightly assessed as ₹4,200/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), compensation on account of loss of future prospects at the rate of 40% (₹1,680/-) is required to be awarded in view of the age of the deceased, which takes the income of the deceased to ₹5,880/- per month (4200+1680) per month. Deduction of 1/4th is to be applied as number of dependants is four (4) (dependent mother is arrayed as respondent No.4), thereby rendering income of the deceased to be ₹4,410/- (5880-1470). Multiplier of 17 is correctly applied. Annual dependency of the claimants is, therefore, assessed as ₹8,99,640/- (₹4410x12x17). The claimants are also entitled to ₹15,000/- for funeral expenses and ₹15,000/- for loss of estate besides the claimant widow being entitled to ₹40,000/- on account of loss of consortium.

Claimants are, thus, entitled to total compensation of ₹9,69,640/- detailed as under:-

Loss of dependency (₹4410x12x17)	₹8,99,640/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹9,69,640/-

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.

July 25, 2018
rts

(Lisa Gill)
Judge

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