

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

**F.A.O. No. 4284 of 2014 (O&M)
Date of Decision: 29.11.2018**

Raj Bala @ Bala and others

.....Appellants.

Versus

Jai Parkash and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: None for the appellants.

Ms. Swati Batra, Advocate
for respondent no.3.

LISA GILL, J.

Appellant-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Gurgaon (for short 'tribunal'), vide impugned award dated 22.04.2013, on account of death Manoj Sangwan.

None appeared on behalf of the appellants on 13.07.2018 and the matter was adjourned to 29.11.2018. It was specifically recorded in order dated 29.11.2018 that no further adjournment shall be afforded for addressing arguments.

Though, the appeal can be dismissed in default, however, the said course is not being adopted as the present is an appeal filed by the claimants seeking enhancement of the compensation awarded on account of death of Manoj Sangwan in the motor vehicle accident, which took place on 30.05.2011. It is considered just and expedient to decide the matter on merits

rather than dismiss the same for non appearance of the learned counsel for the appellants. Available file has been perused.

As per averments in the claim petition under Section 166 of the Motor Vehicles Act, Manoj Sangwan son of Ranbir Singh (deceased) dropped Manoj Kumar son of Bhalle Ram on 30.05.2011, at about 12.30.a.m., from his company i.e. Bansal Iron and Sheet Traders branch at Gurgaon, at Manoj Kumar's house near Shani Mandir, Sector 18, Sirho, Gurgaon, on his motorcycle i.e. Bajaj Platina bearing registration no. DL-6-S-AB-5177 as per their daily routine. Manoj Sangwan (deceased) unfortunately met with an accident at NH-8, near Hanuman Mandir, Gurgaon. Manoj Kumar son of Bhalle Ram reached at the spot on receiving information and found the motorcycle lying there and glass window of the vehicle covered by black film bearing slip No. DTS 1022 and bearing the phrase, 'if driving rash call-9810721919'. Manoj Sangwan (deceased) sustained multiple and grievous injuries. He was referred to Orbit Health Care, Sector 31-32, Main Jharsa Road, Gurgaon for treatment, but he succumbed to his injuries. FIR No. 155 dated 31.05.2011 was registered against respondent no.1-Jai Parkash, 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-Jai Parkash. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹6750/- per month. Multiplier of 18 was applied by the learned tribunal. A sum of ₹10,000/- was awarded towards funeral and last rites, ₹20,000/- was awarded as loss of

estate and ₹10,000/- was awarded on account of loss of consortium. Learned tribunal awarded a sum of ₹10,27,870/- along with interest @ 9% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

I have perused the file and heard learned counsel for the Insurance Company.

Claimants are the widowed-mother, unmarried sister and minor brother of the deceased. Income of the deceased has been assessed as ₹6750/- p.m., on the basis of the salary certificate Ex.PW3/1 produced by the claimants. There is neither any claim or any evidence for enhancement of the income as assessed by the learned tribunal. Thus income of the deceased at ₹6750/- per month is upheld. Learned tribunal has rightly applied multiplier of 18 in view of the age of the deceased. However, future prospects at the rate of 40% are required to be afforded 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.**

Learned counsel for the respondent-Insurance Company has stated that as the deceased was a bachelor, deduction should be 50% and not 1/ 3rd as effected by the learned tribunal. There is no merit in this argument for the reason that the claimants are admittedly the widow-mother, unmarried sister and the minor brother of the deceased. All of them have claimed to be dependent upon the deceased, who was the sole earning member of the family. There is no evidence on record to refute the same. Therefore, the learned tribunal has rightly effected deduction of 1/ 3rd instead of 50% despite the deceased being a bachelor. The claimants are entitled to

₹15,000/- for funeral expenses instead of ₹10,000/-, ₹15,000/- for loss of estate instead of ₹20,000/-. 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 consortium.

Compensation towards the claimants on account of death of Manoj Sangwan is thus re-worked as under:-

1.	Total income of deceased	₹6750/- p.m
2.	Deduction of 1/ 3 rd on account of personal expenses	₹6750/- (₹6750*1/3=₹2250/-) = ₹4500/-
3.	Total income after addition of future prospects at the rate of 40%	₹4500/- (₹4500/-+ ₹1800/-) i.e. ₹6300/-
4.	Annual dependency after applying multiplier of 18	₹6300/- x 12 x 18= ₹13,60,800/-
5.	Funeral expenses	₹15,000/-
6.	Filial Consortium to mother	₹40,000/-
7.	Loss of estate	₹15,000/-
8.	For loss of consortium to unmarried brother and sister @ ₹40,000/- each	₹80,000/-
	Total Compensation =	₹15,10,800/-

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.

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.

Copy of the order be conveyed to the appellants at the address available on the file. In case of any grievance, the appellants are at liberty to move an appropriate application within two months of receipt of certified copy of this order.

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

29.11.2018

s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.