

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

FAO No. 419 of 2015 (O&M)
Date of decision : December 18, 2018

Himanshu and others

..... Appellants

v.

Bhopal Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. HN Sahu, Advocate
for the appellants.

Mr. Jasbir Mor, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate
for respondent No.2.

Ajay Tewari, J (Oral)

C.M No.1106 CII of 2015

For the reasons recorded, this application is allowed and delay
of 10 days in filing the appeal is condoned.

FAO No.419 of 2015

This appeal has been filed by the claimants for enhancement of
compensation on account of death of Bijender Singh in a road vehicular
accident which took place on 5.1.2011. Since the only question of quantum
is involved, further reference to the detailed facts would not be necessary.

Counsel for the appellants has argued that the income of the
deceased was wrongly taken as ₹4500/- per month, whereas as per the

scheduled attached to the Minimum Wages Act, at the relevant time in the State of Haryana the monthly income was ₹4643/-. I find this to be correct and take the income of the deceased as ₹4700/- per month.

Counsel for respondent No.2-Insurance Company, however, points out that future prospects of 50% had been wrongly awarded, whereas in view of the judgment of the Supreme Court, in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, future prospects had to be 40%. Counsel for the appellants is not in a position to deny this. Consequently, future prospects are reduced to 40%.

Counsel for the appellants has further argued that in terms of the decision of the Supreme Court in Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333, a sum of ₹ 1.60 lakh had to be awarded as consortium/filial consortium to the widow, two children and the mother and apart from that, a sum of ₹30,000/- was also payable on account of last rites but in the present case only a sum of ₹1.25 lakh has been awarded. I find it to be correct and consequently award a further sum of ₹65,000/-.

Counsel for the appellants has further argued that the Tribunal has granted interest 7.5% pa but in view of the decision of the Supreme Court in Magma General Insurance Company Ltd's case (supra) interest @ 12% pa has to be granted. Counsel for the Insurance Company is not in a position to dispute this. Consequently, I award interest @ 12% pa on the enhanced compensation from the date of the claim application till the date of payment. Apart from the individual amount/s, the entire amount be divided equally between the two minor children and be put in a fixed deposit in any nationalized bank till the period they attain majority.

However, the interest accrued thereon would be released to appellant No.3 to be used for the welfare of the two minors. The remaining award shall remain unchanged. With this modification in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

December 18, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No