

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

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**FAO No.4784 of 2016 (O&M)
Date of Decision : 28.09.2018**

Bahadur Singh and others

..... Appellants

Versus

Nishant Kukreja

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. A.K.Yadav, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate
for respondent No.2.

AJAY TEWARI, J. (Oral)

This is an appeal for enhancement of compensation and for modifying the award dated 02.03.2016 passed by the Motor Accidents Claims Tribunal, Rewari granting compensation of Rs.2,32,000/- alongwith interest @ 8% per annum in favour of the appellants and against the respondents.

The brief facts of the case are that on 27.06.2015 the deceased- Shanti Devi was coming from her fields and a car bearing registration No.DL-3C-BS-1880 came from Jaipur side in a very rash and negligent manner and hit the deceased. As a result of which she sustained serious and fatal injuries. She was rushed to the hospital where she expired. Claim petition was filed. The Tribunal held that the accident had been caused by

the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

Counsel for the appellants has argued that in the case of ***Lata Wadhwa and others Vs. State of Bihar and others, (2001) 8 SCC 197*** where the accident took place in the year 1989 the contribution of a housewife to the family was taken at Rs.3,000/- and in a subsequent case bearing FAO No.3680 of 2009 titled as ***Harpal Kaur & others Vs. Parmod Kumar and others***, decided on 01.06.2016 where the death had taken place in 2007 this Court had taken the contribution of the deceased in a case of death in 2007 at Rs.9,000/- but considering the fact that the deceased was 65 years old and her two middle aged sons living (presumably with their wives), I deem it appropriate to take her contribution at Rs.6,000/- per month.

In view of the judgment of ***Paramjit Singh and another vs. Dilbagh Singh alias Bagga and others 201 (4) RCR (Civil) 895***, a Division Bench of this Court has held that where the income is taken on notional basis no deduction can be made (for the simple reason that the income is notional). Similarly, in ***FAO No.1492 of 2018 titled as Ram Mehar and others Vs. Bhupinder and others decided on 29.08.2018***, this Court held that there can neither be addition of future prospects in case of notional income nor can there be deduction.

Counsel for the insurance company states that under the conventional heads an amount of Rs.1,00,000/- has been awarded, which is excessive. I find this to be correct. Rs.30,000/- is reduced under the said head.

Learned counsel for the appellants has further argued that interest @8% per annum has been granted in this case whereas as per the judgment passed in *Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 decided on 18.09.2018* the Supreme Court has after considering *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, granted interest @12% per annum and the same should be granted in the present case on the entire compensation. I find this to be correct. I award interest @ 12% per annum from the date of filing the claim petition till the date of payment.

The appeal is allowed in the above terms and the award is modified accordingly. Rest of the award shall remain stayed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

28.09.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No