

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

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**FAO-5904-2015 (O&M)
Date of Decision : 18.12.2018**

Smt. Jubeda and others

....Appellants

vs.

Nasruddin and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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

Ms. Vandana Malhotra, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 3.4.2015 passed by Motor Accident Claims Tribunal, Mewat awarding compensation of Rs. 7,77,000/- alongwith interest at the rate of 7.5% per annum on account of death of Rustam in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Counsel for the claimants asserts that firstly the income of the deceased was taken on the lower side because on that date as per the provisions of the Minimum Wages Act, the minimum wages for a casual labourer was Rs. 5547/-. The Tribunal erred in taking the income of the deceased as Rs.5200/- per month. Counsel for the insurance company is not in a position to deny this. Consequently, I hold the income of the deceased

as Rs. 5547/- say Rs.5600/-per month as per the provisions of the Minimum Wages Act in Haryana.

Counsel for the appellants has argued that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 25% future prospects has to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 25% future prospects.

Counsel for the insurance company however has pointed out that deduction should be 1/3rd instead of 1/4th since there are two claimants one widow and one minor son. Counsel for the claimants is not in a position to deny this. Consequently, deduction would be 1/3rd instead of 1/4th.

Counsel for the appellants has further argued that under the conventional heads only an amount of Rs. 75,000/- has been awarded whereas there was widow and a minor son and both of them had to be awarded Rs. 40,000/- per head on account of consortium/filial consortium, in view of ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram 2018 (4) RCR (Civil) 333*** and Rs. 30,000/- for loss of estate and funeral expenses, in view of ***Pranay Sethi (supra)***. Consequently, I award another amount of Rs. 35000/- under the conventional heads.

Counsel for the appellant has pointed out that in the judgment of ***Magma General Insurance Company Limited (supra)*** the Supreme Court has awarded interest at the rate of 12% per annum on the enhanced compensation. In view of this judgment, I also award 12% interest per

annum on the entire compensation from the date of filing of the claim petition till the date of payment.

Apart from the individual amount, entire enhanced amount would go to the appellant No.1. The share of the minor be put in a fixed deposit till he attains the age of the majority.

The appeal stands disposed of with the abovesaid modifications.

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

18.12.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No