

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

FAO No. 6933 of 2015 (O&M)
Date of decision : December 05, 2018

Smt. Shashi and others

..... Appellants

v.

Jitender and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vikas Kumar, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation on account of death of Jitender in a road side accident which took place on 1.9.2010. Since the only issue involved is of quantum, further reference to the detailed facts would not be necessary.

Counsel for the appellants has argued that the Tribunal erred in not granting any future prospects. As per him, in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, 40% had to be awarded on account of future prospects. Counsel for the Insurance Company is not in a position to deny this. Consequently, I direct that future prospects of 40% be granted in this case.

Counsel for the appellants has further argued that under the conventional head, only a sum of ₹ 40,000/- has been awarded, whereas a sum of ₹ 40,000/- each for the mother, widow and the minor daughter should have been awarded as filial consortium/consortium in view 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 and ₹ 30,000/- towards funeral expenses and loss of estate should have been awarded under this head in view of the decision of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009. I find force in this argument and award a sum of ₹1.50 lakh more on this account.

Counsel for the appellants has further argued that the deceased remained admitted in the Fortis hospital for sixteen days and nothing has been awarded towards medical expenses. I find this to be true and award a sum of ₹ 15,000/- on that account.

Counsel for the appellants has further argued that the Tribunal has awarded only 9% interest, whereas in view of the latest decision of the Supreme Court in Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333, interest @ 12% pa has to be granted. Counsel for the Insurance Company is not in a position to dispute this. Consequently, I direct that the enhanced amount would carry interest @ 12% pa from the date of filing the application till the date of payment. However, the appellants would not be entitled to interest for the period this appeal was delayed.

As regards apportionment, apart from the individual amount, appellant No.1 would be entitled to 50%, appellant No.2 would be entitled

to 40% and appellant No.4 would be entitled to 10% of the compensation amount. The share of the minor shall be put in a fixed deposit in any nationalized bank till the period she attains majority. Remaining award shall remain unchanged. This appeal stands disposed of.

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

December 05, 2018
'kk'

(AJAY TEWARI)
JUDGE

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