

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

**FAO No.8662 of 2014 (O&M)
Date of Decision: January 08, 2018.**

Smt. Santa Devi and others

.....APPELLANT(s).

VERSUS

Samat Khan and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Hooda, Advocate
for the appellant (s).

Mr. Shubham Jain, Advocate for
Mr. Suman Jain, Advocate
for respondent No.3.

SURINDER GUPTA, J.

CM-23606-CII-2014

Heard. There is delay of 26 days in filing the appeal.

In view of the facts mentioned in the application, the same is
allowed and delay of 26 days in filing the appeal is, hereby, condoned.

FAO-8662-2014

Motor Accident Claims Tribunal, Palwal vide award dated
02.05.2014 allowed compensation of ₹5,75,000/- for the death of Chattar
Singh, husband of appellant No.1, father of appellant No.2 and son of
appellant No.3 in a motor vehicle accident with multi-axle trailer bearing
registration No.HR-55P-4672.

The compensation awarded was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Chattar Singh
(ii)	Age of the deceased	38 to 40 years
(iii)	Income of the deceased	₹4,500/- p.m.
(iv)	Deduction towards personal expenses 1/3 rd	₹4500-1500=₹3000 p.m. i.e. ₹36000 p.a.
(v)	Multiplier applied 15	₹36000X15 = ₹540000/-
(vi)	Loss of consortium, loss of love and affection	₹20000
(vii)	Loss of estate	₹5,000
(viii)	Compensation for funeral expenses	₹10000
<i>Total</i>		₹5,75,000/-

Learned counsel for the appellants while referring to the observations of the Constitution Bench of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009***, has argued that deceased was an auto-rickshaw driver, as such, self employed and was entitled to 40% addition in the income of the deceased towards future prospects. Towards loss of consortium, loss of estate and funeral expenses, petitioners are entitled to ₹70,000/- as compensation while the Tribunal has allowed only ₹35,000/-. He has, however, not disputed the income of the deceased as assessed by the Tribunal as ₹4,500/- per month and the multiplier applied.

Learned counsel for insurance company though has not conceded the submissions made by learned counsel for the appellants but could not rebut the same in view of the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

National Insurance Company Limited Vs. Pranay Sethi and others

(supra), the compensation to which the claimants are entitled, is computed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4500 per month
(ii)	Deduction of 1/3 rd towards personal expenses of the deceased	(₹4500- ₹1500)= (₹3000 per month)
(iii)	40% of(ii)above to be added as future prospects	(₹3000+₹1200)= ₹4200 per month
(iv)	Compensation after multiplier of 15 is applied	(₹4200X12X15)= ₹756000
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
<i>Total</i>		₹8,26,000/-

The appeal has merits and is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹5,75,000/- to ₹8,26,000/- for the death of Chattar Singh. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as per the award. Respondent No.3-insurance company will deposit the share of appellants-claimants in their bank accounts or pay the same through demand drafts. The share of minor appellant, will be deposited in some nationalised bank as fixed deposit till the period he attains majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the fresh order from

the Tribunal to get the payment of the amount deposited in his name after

the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

January 08, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>