

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

**F.A.O. No. 9149 of 2014 (O&M)
Date of Decision: 10.10.2018**

Krishna Devi @ Krishna Rani and others

.....Appellants.

Versus

Ramesh Kumar and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Dheeraj Kumar Narula, Advocate
for the appellants.

Mr. Sanjeev Goyal, Advocate
for the respondents..

LISA GILL, J.

Appellant-claimants, seeks enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Sirsa (for short 'MACT'), vide impugned award dated 19.09.2013 on account of death Dalip Kumar, husband of appellant-claimant no.1 and father of appellant-claimants no.2 to 4.

As per averments in the claim petition, at about 7.30.a.m., on 26.07.2012, Dalip Kumar was going to urinate towards an open place situated at Preet Nagar Colony, Begu Road, Sirsa. In the meantime, a truck bearing registration No. RJ-31-GA-0592 which was being driven by respondent no.1 in a rash and negligent manner, came from the side of village Shahpur Begu and struck against Dalip Kumar while crushing both of his legs. After that he was immediately shifted to General Hospital, Sirsa by one Jagdish, who runs a shop there but Dalip Kumar succumbed to the injuries on the way to hospital. FIR No. 544 dated 26.07.2012, under

Sections 279, 304-A IPC was registered against respondent no.1, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Ramesh Kumar. The said finding of the learned tribunal has attained finality.

The learned tribunal awarded a total sum of ₹7,27,000/- on account of death of Dalip Kumar, which is detailed as under:-

1.	Income	₹6000/- per month(₹54,000/- annual income
2.	Add., % of income	--
3.	Deduction	1/4th
4	Multiplier	13
5	Loss of consortium	₹10,000/-
6	Loss of love and affection	₹10,000/-
7	Loss of estate	₹3000/-
8	Funeral expenses	₹2000/-
	Total	₹7,27,000/-

Learned counsel for the appellants submits that increase of 25% is required to be afforded on account of future prospects in view of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**. It is further submitted that meagre compensation has been awarded under the conventional heads. It is, thus, prayed that compensation awarded to the appellants be enhanced in terms of the abovesaid judgements.

Learned counsel for the respondent-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any

further enhancement. Learned counsel prays for dismissal of the appeal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute regarding the income of the deceased. However, increase in income on account of future prospects at the rate of 25% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in *Pranay Sethi's* case (Supra). Multiplier of 13 has been correctly applied by the learned tribunal. Deduction of 1/4th by the learned tribunal is maintained.

Keeping in view the parameters referred to hereinbefore and in view of the decisions of the Hon'ble Supreme Court in **Pranay Sethi** (supra), and **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, Civil Appeal no. 9581 of 2018, arising out of SLP (Civil) No. 3192 of 2018, decided on 18.09.2018.,** compensation towards the claimants on account of death of Dalip Kumar is re-worked as under:-

1.	Total income of deceased	₹6000/- p.m
2.	Deduction of 1/4th on account of personal expenses	₹6000/- (₹6000*1/4=₹1500/-) = ₹4500/-
3.	Total income after addition of future prospects at the rate of 25%	₹4500/- (₹4500+ ₹1125/-) i.e. 5625/-
4.	Annual dependency after applying multiplier of 13	₹5625/- x 12 x 13= ₹8,77,500/-
5.	Spousal consortium	₹40,000/-
6.	Loss of estate and funeral expenses	₹50,000/-
7.	Parental consortium to children of the deceased @ ₹40,000/-each	₹1,20,000/-
	Total Compensation =	₹10, 87,500/-

Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall stand deducted.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants, shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

10.10.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.