

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

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**FAO-7768-2015 (O&M)
Date of Decision : 3.12.2018**

Smt. Musrat Parveen and others

....Appellants

vs.

Mubin and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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

Mrs. Vikas Chaudhary, Advocate for
Ms. Vandana Malhotra, Advocate
for the respondent-insurance company.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 21.7.2015 passed by Motor Accident Claims Tribunal, Mewat awarding compensation of Rs. 21,69,000/- alongwith interest at the rate of 9% per annum on account of death of Taslim Aarif in an accident.

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

Counsel for the claimants-appellants has stated that the deceased had passed B.Sc (MLT) Lateral Entry Medical Lab, Technology, LE complementary medicines, diploma in medical imaging technology, DMLT with first division and was having his own PP Lab and x-ray computerized centre and the Tribunal assessed his income only Rs.9000/-

per month while as per the provisions of the Minimum Wages Act in Haryana the minimum wages for a skilled labourer was Rs. 9450/- say Rs.9500/-. Counsel for the respondent No.3 has accepted this fact. Consequently, I assess the income of the deceased at Rs.9500/- per month. Counsel for the respondent No.3 has however pointed out 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*** 40% future prospects can be granted whereas the Tribunal had awarded 50% future prospects. Counsel for the appellants is not in a position to deny this fact. Consequently, I award 40% future prospects instead of 50%.

Counsel for the appellants has pointed out that the Tribunal had awarded Rs. 2,25,000/- under conventional heads whereas as per the judgment of Supreme Court passed in “***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***” reported as ***2018 (4) RCR Civil 333*** the Supreme Court after discussing 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*** widow, minor children and mother are entitled to Rs.40,000/- each as consortium/filial consortium. Counsel for the insurance company has accepted this fact. As per these judgments, the widow, minor children and mother of the deceased are entitled for Rs.40000/- each under the head of consortium/filial consortium and an amount of Rs.30,000/- under other conventional heads. Therefore, I award Rs. 45,000/- more over and above the amount awarded by the Tribunal.

Counsel for the appellant has further pointed out that the Tribunal had awarded interest at the rate of 9% per annum whereas 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 entire compensation. In view of this judgment, I award 12% interest per annum on the enhanced amount from the date of filing of the claim petition till the date of payment.

Apart from the individual amounts the apportionment would be same as ordered by the Tribunal.

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.

(AJAY TEWARI)
JUDGE

3.12.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No