

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

FAO No. 780 of 2015 (O&M)

Date of decision : November 30, 2018

Rinku Devi and others

.....Appellants

Versus

Yadwinder Singh @ Lucky and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gitish Bhardwaj, Advocate
for the appellants.

None for the respondents.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as the 'Tribunal') on account of death of Rajesh Rai vide award dated 13.01.2014.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rajesh Rai on 20.07.2011 in a motor vehicle accident caused due to driving of the offending vehicle mini Truck bearing registration No. PB-10-BH-3557 by respondent No.1 in a rash and negligent manner. It was averred that Sanjay Kumar alongwith Rajesh Rai were returning to their respective houses after meeting the Contractor of the mill in area of Vishav Nath Mill, G.T. Road, Mandi Gobindgarh. When they were in front of above said mill, offending vehicle mini Truck bearing registration No. PB-10-BH-3557 struck against Rajesh Rai and ran over Rajesh Rai by going to

the wrong side. As a result thereof, serious head injuries were received by Rajesh Rai. He succumbed to his injuries at the spot. The deceased, aged 35 years at the time of the accident was stated to be earning a sum of ₹9,000/- per month while working as a labourer (Paledaar) in a mill.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 20.07.2011 due to rash and negligent driving of the offending Truck bearing registration No. PB-10-BH-3557 by respondent No. 1. Learned Tribunal awarded a sum of ₹5,96,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹4,000/- per month. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 16 was applied as the deceased was 35 years old at that time. Additionally, a sum of ₹10,000/- on account of loss of consortium was awarded and a sum of ₹5,000/- on account of loss of love and affection besides a sum of ₹5,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹4,000/- per month. It is further submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 40% should be afforded and deduction of 1/5th instead of 1/4th should be effected in view of guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport**

Corporation and another 2009 (3) RCR (Civil) 77. It is submitted that though multiplier of 16 has been correctly applied, compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 13.01.2014 be upheld.

Heard learned counsel for the parties.

There is no dispute that Rajesh Rai lost his life in a motor vehicle accident, which took place on 20.07.2011 caused due to the rash and negligent driving of mini Truck bearing registration No. PB-10-BH-3557 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 35 years old at the time of the accident.

Learned counsel for the appellant is unable to point out any evidence on record to indicate the deceased to be earning an income higher than ₹4,000/- per month as assessed by the learned Tribunal. The claimants averred the deceased to be working as labourer i.e. Paledaar in a mill, earning a sum of ₹9,000/- per month. However, there is no evidence on record to indicate the same. Income of the deceased has been rightly assessed as ₹4,000/- per month by the learned Tribunal. Minimum wage of an unskilled labourer at the time of accident in the State of Punjab was about ₹3,800/-. Income of the deceased, as assessed by the learned Tribunal,

is thus upheld as ₹4,000/-. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹1600/-) has to be afforded, as the deceased was 35 years old at the time of accident, which takes income of the deceased to ₹5600/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Sarla Verma** (supra), deduction of 1/5th is to be applied as number of dependants is seven (7), thereby rendering income of the deceased to be ₹4480/-(5600-1120). Applying a multiplier of 16, dependency of the claimants is, therefore, assessed as ₹8,60,160/- (₹4480x12x16). The claimants are also entitled to ₹15,000/- (instead of ₹5,000/-) each for funeral expenses and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of spousal consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others** (Civil Appeal No. 9581 of 2018), appellants No. 2 to 7 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹11,70,160/- detailed as under:-

Loss of dependency (₹4480x12x16)	₹8,60,160/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium (40,000 x 6)	₹2,40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹11,70,160/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above.

Appellants shall be entitled to interest at the rate of 7.5% per annum on the

enhanced amount from the date of filing of the petition till realization.

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.

November 30, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No