

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.1123 of 2017 (O&M)
Date of Decision : 07.12.2018

Smt. Mithlesh and others

..... Appellants

Versus

Ashok Kumar and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Amit Jain, Advocate
for the appellants.

Mr. Harjinder Singh, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This is an appeal for enhancement of compensation and for modifying the award dated 25.11.2016 passed by the Motor Accident Claims Tribunal, Gurgaon granting compensation of Rs.12,33,500/- along with interest @7.5% per annum for the death of Devi Singh in an accident which took place on 07.02.2012.

Since a very limited point has been raised further detailed reference to the facts is not necessary. Counsel for the appellants-claimants has argued that in view of the judgment passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***, 25% had to be awarded on account of future prospects.

Counsel for respondent No.3 is not in a position to deny this. It is held that 25% has to be awarded towards future prospects.

Counsel for the claimants-appellants states that under the conventional heads the tribunal has awarded a sum of Rs.1,40,000/- and as per the judgments passed in ***Pranay Sethi (supra) and Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., 2018 (4) RCR (Civil) 333***, Rs.40,000/- each for consortium/filial consortium had to be awarded to appellants No.1, 3, 4 and 5 and a further sum of Rs.30,000/- for the loss of estate and for funeral expenses, and once that is taken into consideration the compensation under the conventional heads would be Rs.1,90,000/- instead of Rs.1,40,000/-. Counsel for respondent No.3 is not in a position to deny this. I award Rs.50,000/- more under the conventional heads.

Counsel for the appellants-claimants states that interest @7.5% per annum has been awarded whereas in ***Magma General Insurance Company Ltd. supra***, the Supreme Court had awarded interest @12% per annum. In the circumstances, the enhanced compensation would carry interest @12% per annum from the date of claim petition till realization. Apart from the individual amounts, out of the enhanced amount 60% will go to appellant No.1-widow, 10% each will go to appellants No.2, 3, 4 and 5. The share of minors will be put in a fixed deposit till they attain the age of majority.

Appeal is allowed in the above terms and the award is modified accordingly. Rest of the award shall remain unchanged.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

07.12.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No