

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

FAO No. 8426 of 2015 (O&M)

Date of decision : September 28, 2018

Raghubir Singh and others

.....Appellants

Versus

Palwinder Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gaurav Gupta, Advocate for
Mr. Digvijay Nagpal, Advocate
for the appellants.

None for respondents No. 1 and 2.

Mr. Gopal Mittal, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') on account of death of Maninderjit Singh vide award dated 04.07.2015.

Brief facts necessary for adjudication of the case are that the claimants i.e. parents and sister of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Maninderjit Singh on 20.11.2013 in a motor vehicle accident caused due to driving of the offending vehicle Alto car bearing registration No. PB-11-AQ-1374 driven by respondent No.1 in a rash and negligent manner. It was averred that on 20.11.2013, Navjeet Singh and Maninderjit Singh (deceased) had gone to Gill Palace, Samana to attend a marriage on a motor

cycle. They went to village Pura. After visiting village Pura, when they reached near Harman Factory, offending vehicle Alto car bearing registration No. PB-11-AQ-1374 driven in a rash and negligent manner by respondent No. 1 came from opposite side and hit the motor cycle driven by Maninderjit Singh. Injuries were received by Maninderjit Singh and Navjeet Singh. Both the injured were taken to Amar Hospital, Patiala in Plaza Ambulance. Maninderjit Singh succumbed to his injuries on 26.11.2013 in Amar Hospital, Patiala. The deceased, aged 21 years at the time of the accident was stated to be earning a sum of ₹10,000/- per month while working as conductor/helper with M/s Dashmesh Bus Service, Sunam. He was also stated to be earning ₹5,000/- by doing tuition work.

Claim petition was resisted by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether Maninderjit Singh had died in a motor vehicle accident which took place on 20.11.2013 due to rash and negligent driving of car bearing registration No. PB-11AQ-1374 being driven by respondent No. 1? OPP
2. Whether the claimants are entitled to claim, if so, to what amount and from whom? OPP.
3. Whether the driver of the car bearing registration No. PB-11AQ-1374 was not holding a valid and effective driving licence at the time of accident? OPR
4. Whether the driver of the motor cycle bearing No. car bearing registration No. PB-11AU-0389 was not holding a valid and effective driving licence at the time of accident? OPR
5. Relief.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 20.11.2013 due to rash and negligent driving of the offending car bearing registration No.

PB-11AQ-1374 by respondent No. 1. Learned Tribunal awarded a sum of ₹9,29,000/- with interest at the rate of 9% 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 ₹10,500/- per month. Deduction of 50% was effected. Multiplier of 13 was applied keeping in view the age of the father of the deceased i.e. 46 years at that time. Additionally, a sum of ₹1,00,000/- on account of loss of love and affection, deprivation of protection, social security etc. was awarded besides a sum of ₹10,000/- on account of funeral and ritual expenses.

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

Learned counsel for the appellants submits that there is no dispute regarding the income of the deceased assessed as ₹10,500/- per month by the learned Tribunal, however, 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. Learned counsel for the appellant submits that learned Tribunal has applied the multiplier of 13 keeping in view the age of the father of the deceased whereas multiplier of 18 should have been applied. Learned counsel fairly states that compensation on account of loss of consortium, funeral expenses are required to be reworked while deduction of 50% should be effected. 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 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 04.07.2015 be upheld.

Heard learned counsel for the parties.

There is no dispute that Maninderjit Singh lost his life in a motor vehicle accident, which took place on 20.11.2013 caused due to the rash and negligent driving of car bearing registration No. PB-11AQ-1374 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 21 years old at the time of the accident.

There is no dispute regarding the income of the deceased to be ₹10,500/- per month as assessed by the learned Tribunal. 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% (₹4200/-), as the deceased was 21 years old at the time of accident, is afforded, which takes the income of the deceased to ₹14,700/- per month. 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, deduction of 50% is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹7350/-(14700-7350). Similarly, multiplier of 18 instead of 13 has to be applied as per **Sarla Verma's** case. Thus, applying a multiplier of 18, dependancy of the claimants is assessed as ₹15,87,600/- (₹7350x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate. 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. 1, 2 and 3 i.e. parents and sister of the deceased are entitled to ₹40,000/- each on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹17,37,600/- detailed as under:-

Loss of dependency(₹7350x12x18)	₹15,87,600/-
Loss of filial consortium (40,000 x 3)	₹1,20,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹17,37,600/-

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.

September 28, 2018
rts

(Lisa Gill)
Judge

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