

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

(1)

**FAO No.8645 of 2015 (O&M)
Date of Decision: November 29, 2018.**

Gyan Chand and another

.....APPELLANT(s).

VERSUS

Bhima Jadhav and others

.....RESPONDENT(s).

(2)

FAO No.1086 of 2016 (O&M)

United India Insurance Company Limited

.....APPELLANT(s).

VERSUS

Gyan Chand and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Munish Kumar Garg, Advocate
for the appellants-claimants in FAO-8645-2015 and
for respondents No.1 & 2 in FAO-1086-2016.

Mr. D.P. Gupta, Advocate
for respondent No.3 in FAO-8645-2015 and
for appellant-insurance company in FAO-1086-2016.

SURINDER GUPTA, J.

Both the aforementioned appeals have been taken up together as these arise out of common award dated 04.09.2015 passed by Motor Accident Claims Tribunal, Jind (later referred to as 'the tribunal') whereby a compensation of ₹40,04,116/- has been allowed to the claimants for death of their son Vivek Madan (later referred to as 'the deceased') .

Heard.

Learned counsel for the parties are ad idem that compensation

is to be allowed to the claimants as per the law settled by Hon'ble Apex Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009**. They have supplied a chart showing compensation which could be allowed to the claimants and the same is reproduced as follows:-

Sl.No.	Heads	Calculation
(i)	Income of the deceased	₹23817 per month i.e. ₹285804 p.a.
(ii)	40% of above (i) to be added as future prospects	(₹285804+₹141321) = ₹400125/- p.a.
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹400125-₹200063) = ₹200062 p. a.
(iv)	Compensation after multiplier of 18 is applied	(₹200062X18)= ₹3601116
(v)	Loss of estate	₹15000
(vi)	Funeral expenses	₹15000
Total		₹36,31,116/-

Both the counsel for the parties have no dispute on the above amount of compensation.

Learned counsel for the claimants has sought award of compensation for loss of consortium to the parents of the deceased as per the law settled by Hon'ble Apex Court in case of **Magma General Insurance Company Ltd Vs. Nanu Ram @ Chuhru Ram, Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 (decided on 18.09.2018)**.

Learned counsel for the insurance company has argued that as per the law settled by Hon'ble Five Judges Bench of Apex Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others (supra)**, compensation for loss of consortium cannot be allowed to the parents of the deceased. In case of **Magma General Insurance Company**

Ltd Vs. Nanu Ram @ Chuhru Ram (supra), Hon'ble Apex Court has allowed compensation on this score using its powers conferred under Article 142 of Constitution of India.

Learned counsel for the claimants has not disputed that as per law settled in **National Insurance Company Limited Vs. Pranay Sethi and others (supra)**, claimants being parents of the deceased, are not entitled to any compensation for loss of consortium, as such, the argument of learned counsel for the claimants, claiming ₹40,000/- for each of the parents of the deceased as loss of consortium, is declined.

The tribunal has awarded compensation for the death of deceased Vivek Madan as ₹40,04,116/- which as per the calculation supplied by learned counsel for parties as per law settled by Hon'ble Apex Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others (supra)**, is on higher side. The amount of compensation works out to ₹36,31,116/-. Consequently, the appeal filed by claimants bearing FAO No.8645 of 2015 has no merits and is dismissed. Appeal filed by insurance company bearing FAO No.1086 of 2016 has merits and is allowed. Compensation awarded to the claimants for the death of Vivek Madan is reduced from ₹40,04,116/- to ₹36,31,116/-. The appellant-insurance company will be entitled to recover the excess amount, if paid to the claimants, beyond the amount of compensation as assessed in this appeal. Parties are left to bear their own costs.

November 29, 2018.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No