

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.1750 of 2017 (O&M)  
Date of decision:01.10.2018.

Shinder and another

...Appellants

Versus

Daljit Singh alias Goldy and others

....Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Rajender Kumar, Advocate for  
Mr. R.D. Sharma, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.3/Insurance  
Company.

**LISA GILL, J.**

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Gurdaspur ('Tribunal' for short) vide award dated 14.10.2016 on account of death of Sunil Masih in a motor vehicle accident on 27.09.2013.

The claimants, who are the parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Sunil Masih due to injuries received in a motor vehicle accident which took place on 27.09.2013. FIR No.79 dated 28.09.2013 was registered under Sections 279, 304-A and 427 IPC at Police Station Dera Baba Nanak, District Gurdaspur against respondent No.1. It was pleaded that the deceased at the time of his death was a student, besides running a dairy. His monthly income was stated to be Rs.10,000/-. He was 18 years old at the time of accident. Compensation was thus prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. Learned Tribunal further assessed the age of the deceased as 18 years at the time of his death and assessed the income of the deceased as Rs.6000/- per month. 30% increment in income was afforded on account of future prospects. Thus, total income of the deceased was assessed as Rs.7800/- per month. Deduction of 50% was effected towards the personal expenses as he was a bachelor. After applying a multiplier of 18, total dependency was assessed at Rs.8,42,400/-. Another sum of Rs.25000/- was awarded towards funeral expenses. Thus, claimants were held entitled for total compensation of Rs.8,67,400/- along with interest @ 6% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that increase in income on account of future prospects should be afforded @ 40% instead of 30% in view of National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009. Amount awarded under the conventional heads needs to be enhanced as per the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others, in Civil Appeal No.9581 of 2018 decided on 18.09.2018. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the Insurance Company has refuted the above said arguments while submitting that the impugned award has correctly been passed and no ground for any enhancement is made out.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that deceased had died due to injuries received in a motor vehicle accident which took place on 27.09.2013 due to the rash and negligent driving of the offending vehicle by respondent No.1. Income of the deceased is not in dispute. In view of the guidelines laid down by the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, 40% increase in income instead of 30% has to be afforded on account of future prospects. In view judgment of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others, in Civil Appeal No.9581 of 2018 decided on 18.09.2018, Rs.40,000/- each has to be afforded towards parental consortium. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.25,000/- already afforded towards funeral expenses. Deduction of 50% towards personal expenses has rightly been effected as the deceased was unmarried. Multiplier of 18 has rightly been applied.

Appellant-claimants are, thus, entitled to compensation, which is re-worked as under:-

| <b>Sr.No.</b> | <b>Heads of Claim</b>                                                         |                                            |
|---------------|-------------------------------------------------------------------------------|--------------------------------------------|
| 1.            | Income                                                                        | 6000 p.m.<br>i.e., 72,000/- per annum      |
| 2.            | Total income after addition at the rate of 40% on account of future prospects | 72000+28,800 (72,000x40%)<br>= 1,00,800/-  |
| 3.            | Income after deduction of 50% on account of personal expenses                 | 1,00,800–50,400 (1,00,800/2)<br>= 50,400/- |

|                    |                                                    |                          |
|--------------------|----------------------------------------------------|--------------------------|
| 4.                 | Total dependency after applying a multiplier of 18 | (50,400 x18) =9,07,200/- |
| 5.                 | Loss of estate                                     | 15,000/-                 |
| 6.                 | Loss of funeral                                    | 15,000/-                 |
| 7.                 | Loss of consortium to parents                      | 40,000/- each            |
| <b>Grand Total</b> |                                                    | 10,17,200/-              |

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 award dated 14.10.2016, present appeal is disposed of.

(LISA GILL)  
JUDGE

October 01, 2018  
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No