

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

FAO No. 814 of 2016(O&M)

Date of Decision: October 17 , 2018.

Shadi Lal and another

..... APPELLANT (s)

Versus

Sohan Lal and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Munish Kumar Garg, Advocate
for the appellants.

Mr. Rohan Jain, Advocate
for respondent No.2.

Mr. Abhishek Goyal, Advocate
for respondent No.3 – Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Sonapat (for short, the 'Tribunal') vide impugned award dated 11.09.2015 on account of death of Ravinder in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of their son Ravinder, who lost his life in a motor vehicle accident which took place on 17.05.2012. FIR No.180 dated 17.05.2012, under Sections 279/304A IPC was registered at Police

Station Sadar Sonapat against respondent No.1. 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 car bearing registration No. DL-3CL-7111 by respondent No.1 – Sohan Lal. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹3,00,000/- as compensation to the appellants-claimants vide impugned award dated 11.09.2015. The deceased was aged 26 years at the time of the accident. Income of the deceased was assessed as ₹5,000/- per month. Deduction to the extent of 50% account of personal expenses was effected and multiplier of 5 was applied, while affording an increment at the rate of 50% on account of future prospects. ₹25,000/- towards funeral expenses and ₹50,000/- on account of loss of love and affection was awarded.

Learned counsel for the appellants submits that the learned Tribunal has erred in applying the multiplier of 17, though it is fairly stated that future prospects should be afforded at the rate of 40% as per the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. It is submitted that amount under the conventional heads be awarded in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. It is thus prayed that the compensation amount be re-worked accordingly.

Learned counsel for respondent No.3 – Insurance Company however

prays for upholding the impugned award dated 11.09.2015 as there is no ground for any enhancement of the compensation.

I have heard learned counsel for the parties and have gone through the file.

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Sohan Lal. There is no dispute that the deceased was 26 years old at the time of his death. It is so reflected in the post-mortem report (Ex.P2) as well. There is nothing on record to indicate that the deceased was earning an income higher than as assessed by the learned Tribunal i.e. ₹5,000/- per month. Learned counsel for the appellants does not dispute that in view of the judgment of the Hon'ble Supreme in Pranay Sethi's case (supra), future prospects at the rate of 40% instead of 50% need to be afforded. However, keeping in view the age of the deceased at the time of the accident i.e., 26 years , multiplier of 17 instead of 5 is required to be applied as per the judgment of the Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347.** Deduction of 50% has been correctly effected. Both the claimants are entitled to a sum of ₹40,000/- each for loss of filial consortium instead of ₹50,000/- as awarded by the learned Tribunal in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018.** ₹15,000/- instead of ₹25,000/- towards funeral expenses and another sum of ₹15,000/- on account of loss of estate are awarded to the appellants in terms of the judgment of the Hon'ble Supreme Court in the case of Pranay Sethi (supra).

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	5,000 p.m. i.e. ₹60,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	60,000 + (60,000 x 40%) = 84,000
3.	Income after 50% deduction on account of personal expenses	84,000 – (84,000 x 1/2) = 42,000
4.	Total dependancy after applying a multiplier of 17	(42,000 x 17) = 7,14,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	(40,000 x 2) = 80,000
Grand Total		₹8,24,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the appellants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

October 17 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No