

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 3658 of 2017(O&M)

Date of Decision: October 30 , 2018.

Om Pati and another APPELLANT (s)

Versus

Harinam and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Abhimanyu Batra, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.6-Insurance company.

LISA GILL, J.

This is an appeal preferred by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Jind (for short, the 'Tribunal') vide impugned award dated 06.02.2016.

A petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the appellants claiming compensation of ₹30,00,000/- on account of death of their unmarried son Vijay in a motor vehicle accident which took place on 10.07.2014. The learned Tribunal on consideration of the facts and evidence on record, awarded a total sum of ₹16,50,000/- as compensation to the appellants vide impugned award. The deceased was 29 years old at the time of the accident. Learned Tribunal has assessed the notional income of the deceased to be ₹10,000/- per month. Increment at the rate of 50% on account of future prospects

was afforded. While calculating the amount of compensation, deduction to the extent of 50% was effected on account of personal expenses and multiplier of 17 was applied. ₹1,00,000/- was awarded on account of loss of love and affection, besides, ₹20,000/- towards funeral expenses.

Sole argument raised by learned counsel for the appellants is that income of the deceased has been wrongly assessed as ₹10,000/- per month, whereas the deceased was earning ₹15,000/- per month and the same is proved on record, therefore, the impugned award be modified to the said extent.

Learned counsel for respondent No.6 – Insurance Company however refutes the arguments raised. It is submitted that no ground is made out for further enhancement of the compensation. He prays for upholding the impugned award.

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

The claimants have examined PW2 Azad and PW3 I.D.Sharma to prove that the deceased was running a grocery shop. The claimants have also relied upon certain documents to establish that the deceased was running his own grocery shop in the village. While accepting the factum of the deceased running a grocery shop, his income has been assessed as ₹10,000/- per month by the learned Tribunal. A perusal of the record reveals that there is no documentary evidence to conclusively prove that the deceased was earning ₹15,000/- per month as has been averred. As a matter of fact, the documents on record do not indicate the quantum of income earned by the deceased. Minimum wages in the State of Haryana at the relevant time were ₹5,639/- per month. The learned

Tribunal keeping in view the facts and circumstances of the case has rightly assessed income of the deceased to be ₹10,000/- per month, especially taking into consideration the fact that he was running a grocery shop in the village.

Learned counsel for the appellants is unable to point out any evidence on record which would indicate the deceased to be earning income higher than what has been assessed by the learned Tribunal. Similarly, keeping in view of the latest judgments of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and the **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018,** there is no scope for any further enhancement in the compensation awarded to the appellants by the learned Tribunal.

No interference is called for in the impugned award dated 06.02.2016 passed by learned Motor Accident Claims Tribunal, Jind at the instance of the appellants.

Consequently, this appeal is dismissed with no order as to cost.

October 30 , 2018.
'om'

(LISA GILL)
JUDGE

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