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

FAO-3988-2017

Date of decision : 30.01.2018

Nagina and others

... Appellant(s)

Versus

Raju and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWALPresent: Mr. R.S. Randhawa, advocate
for the appellants.Ms. Vandana Malhotra, Advocate
for respondent No.3.

AMIT RAWAL, J. (ORAL)

The appeal has been preferred by the claimants being widow, two minor children and parents of Amit Kumar, who died in a motor accident occurred on 28.07.2015, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹12,46,400/-, has been awarded.

Learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹12,46,400/-, which is on lower side as the deceased was earning ₹20,000/- per month, but the Tribunal took the income of the deceased as ₹8,100/-. Moreover, no increase was made in the salary towards future prospects and an amount of ₹50,000/- towards loss of consortium, ₹20,000/- for funeral expenses and ₹ 10,000/- for loss of estate, is also too meagre, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the Insurance Company submits that the Tribunal has taken care of all the heads

sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a scope of enhancement as the compensation to the tune of ₹12,46,400/- is on lower side. Accordingly, I take the income of the deceased as ₹8,100/- per month as has been taken by the Tribunal and provided 40% increase towards future prospects and apply a multiplier of '16', much less, deduction of 1/4th to assess the loss of dependency as ₹16,32,960/-.

As regards the grant of compensation towards conventional heads, the Tribunal has already granted ₹50,000/- towards loss of consortium, an amount of ₹20,000/- on account of funeral expenses and ₹10,000/- for loss of estate, which are on higher side. I hereby reduce the same from ₹80,000/- to ₹70,000/- towards conventional heads i.e. loss of estate, loss of consortium and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in **SLP (Civil) No.25590 of 2014** titled as **“National Insurance Company Ltd. V/s Pranay Sethi and others”** and by exercising the power under Order 41 Rule 33 CPC as per the *ratio decidendi* culled out by the Hon'ble Supreme Court in **“U.P.S.R.T.C. V/s Km. Mamta and others” (2016) 4 SCC 172.**

In all the compensation payable shall be ₹17,02,960/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. The enhanced amount shall be distributed amongst the appellants-claimants in the ratio of 2:2:2:1:1. The liability shall remain the

same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

30.01.2018 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No