

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

**F.A.O. No. 4135 of 2017 (O&M)
Date of Decision: 10.09.2018**

Swaran

.....Appellant.

Versus

Pappu Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Manish Verma, Advocate
for the applicant-appellant.

Mr.Rupinder Kanwal, Advocate
for respondents no.1 and 2.

Ms. Swati Batra, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

CM-13164-CII of 2017.

There is a delay of 821 days in filing of this appeal.

It is submitted that the applicant had given the papers of this case to a counsel for filing the appeal but the same was not filed. The applicant on coming to know of this fact, engaged another counsel. Moreover due to the death of his son, the applicant went in depression and suffered various ailments. The applicant has two daughters of marriageable age. He remained admitted in Bhupal Hospital and Research Centre, Meerut having suffered a paralytic attack as well. Copy of the medical record is attached with the application.

Heard.

Keeping in view the averments in the application as well as arguments addressed, it is considered just and expedient to condone the delay in filing of the appeal and decide it on merits rather than dismiss it on technical grounds of delay. Accordingly, delay of 821 days in filing of this appeal is condoned.

Application is disposed of.

FAO No. 4135 of 2017

Appellant-claimant, seeks enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Panchkula (for short 'MACT'), vide impugned award dated 17.10.2014 on account of death of the son of the appellant.

Claim petition under Section 166 of the Motor Vehicles Act, was filed by the present appellant along with Pushpa, his wife and Sangeeta, wife of the deceased, who are arrayed as proforma respondents in this appeal.

As per averments in the claim petition, Ashu i.e. son of the appellant alongwith his cousin brother-Mahesh Kumar @ Sethi, injured-Deepa Mala (deceased), Khushi daughter of Mahesh Kumar, Ishku @ Bhola and Banti son of Ramesh, were going in a Maruti Suzuki Eco Car bearing registration no. HR-68-AT-2253 towards their house at Kalka. The car was driven by Ramesh Kumar. When they reached village Bitna bye-pass road, at about 4.00 p.m., a tipper bearing registration no. HR-68-8637 being driven by respondent no.1-Pappu Singh in a rash and negligent manner hit against their Maruti Eco Car from the front side. All the aforementioned occupants of the car received multiple, grievous injuries on their person.

Amit Kumar and Tarun Kumar, who were following the Maruti Eco Car on their motorcycle took the injured to Civil Hospital, Kalka, but on the way, son of the appellant namely Ashu, and Master Ishku @ Bhola succumbed to injuries. One of the injured namely Banti was referred to Government Hospital, Sector-6, Panchkula and the other injured were brought to the Government Medical College & Hospital, Sector-32, Chandigarh. Khushi @ Khushboo, one of the injured died during the treatment in Alchemist Hospital, Sector-21, Panchkula. FIR No.3 dated 03.01.2012, under Sections 279, 337, 304-A and 427 IPC was registered against respondent no.1-Pappu Singh in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Pappu Singh. The said finding of the learned tribunal has attained finality.

The learned tribunal awarded a total sum of ₹11,33,000/- on account of death of the son of the appellant, which is detailed as under:-

1.	Income	₹6000/- per month
2.	Add., % of Increase 30% to 50 %	40%
3.	Deduction	1/3rd
4	Multiplicand (annualized)	₹67,200/- per annum
5	Multiplier	15
6	Loss of dependency	₹10,08,000/-
7	Medical expenses	---
8	Loss of consortium	₹1,00,000/-
9	Loss of estate	---
10	Funeral expenses	₹25,000/-
	Total	₹11,33,000/-

Learned counsel for the appellant primarily argues that multiplier of 16 should have been applied instead of 15 as the deceased was

31 years old at the time of the accident. However, it is not denied that the amount of compensation awarded under the conventional heads i.e. loss of consortium and funeral expenses is required to be re-worked in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**.

Learned counsel for the respondents, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any further enhancement. Learned counsel prays for dismissal of the appeal.

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

In terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**, multiplier of 16 is to be applied instead of 15 as the deceased was 31 years old at the relevant time.

The increase in income at the rate of 40% on account of future prospects awarded by the learned tribunal is upheld. The amount of ₹1 lakh and ₹25,000/- awarded on account of loss of consortium and funeral expenses, respectively, is reduced to ₹40,000/- on account of loss of consortium and ₹15,000/- each on account of loss of estate and funeral expenses.

Keeping in view the parameters referred to hereinbefore and in view of the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra) as well as **Smt. Sarla Verma** (supra), compensation towards the claimant on

account of death of Ashu is re-worked as under:-

1.	Income of deceased	₹6000/- p.m
2.	Total income after addition of future prospects at the rate of 40%	₹6000+2400 =8400/-(6000*40 = 2400/-)
2.	Deduction 1/3rd	₹5600/- (8400 - 2800)
3.	Annual dependency after applying the Multiplier of 16	₹5600x12 x 16 =₹10,75,200/-
4.	Loss of estate	₹15,000/-
5.	Loss of consortium	₹40,000/-
6.	Funeral expenses	₹15,000/-
	Total Compensation =	₹11,45,200/-

The amount of compensation already awarded to the appellant shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per cent per annum on the enhanced amount from the date of filing of the petition till realization.

The manner of ratio of apportionment amongst the claimants as well as the manner of disbursement, as directed by the learned tribunal, shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

10.09.2018
s.khan

[LISA GILL]
Judge

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