

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

FAO No. 634 of 2002 (O&M)

Date of decision : January 22, 2019

Santosh Sharma and others

.....Appellants

Versus

Gian Chand and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arun Singal, Advocate
for the appellants.

Mr. K.S. Malik, Advocate
for respondent No. 2.

Mr. Vinod Chaudhri, Advocate
for respondent No. 3.

LISA GILL, J.

C.M. No. 20438-CII of 2017

Prayer in the application is for early hearing of this appeal which was admitted on 06.09.2002. No settlement could be arrived at before the Lok Adalat. Learned counsel for the non-applicant/respondents do not raise any objection for final hearing of the matter.

With the consent of learned counsel for the parties, appeal is taken up for hearing today itself.

Application is, accordingly, allowed.

FAO No. 634 of 2002

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as the 'Tribunal') on account of death of Sukhvinder Sharma vide award dated 16.05.2001.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, son and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Sukhvinder Sharma in a motor vehicle accident caused due to driving of the offending vehicle Truck bearing registration No. HR-33-0599 by respondent No.1 in a rash and negligent manner. It was averred that on 15.12.1999 Sukhvinder Sharma was going to his village on foot. When he passed the railway gate near about 50 yards, offending vehicle Truck bearing registration No. HR-33-0599 came from Safidon side and hit Sukhvinder Sharma directly. As a result thereof, he fell down and received multiple serious injuries. He was admitted in Civil Hospital, Panipat. Thereafter, he was referred to PGIMS, Rohtak where he succumbed to his injuries on 18.12.1999.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 15.12.1999 due to rash and negligent driving of the offending Truck bearing registration No. HR-33-0599 by respondent No. 1. Learned Tribunal awarded a sum of ₹2,76,000/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹2,000/- per month. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 16 was applied as the deceased was 26 years old at that time. Additionally, a sum of ₹10,000/- on account of medical expenses was awarded besides a sum of ₹10,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased as assessed by the learned Tribunal at the rate of ₹2,000/- per month, however, in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 40% should be afforded. Multiplier of 17 instead of 16 should have been applied in view of guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77. It is further submitted that compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 16.05.2001 be upheld.

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

There is no dispute that Sukhvinder Sharma lost his life in a motor vehicle accident, which took place on 15.12.1999 caused due to the rash and negligent driving of Truck bearing registration No. HR-33-0599 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 26 years old at the time of the accident.

There is further no dispute regarding income of the deceased to

be ₹2,000/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹2,000/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹800/-) has to be afforded, as the deceased was 26 years old at the time of accident, which takes income of the deceased to ₹2,800/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Sarla Verma** (supra), deduction of 1/3rd is to be applied as number of dependants is three (3), thereby rendering income of the deceased to be ₹1867/-(2800-933). Applying a multiplier of 17 instead of 16, dependency of the claimants is, therefore, assessed as ₹3,80,868/- (₹1867 x12x17). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹10,000) and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of spousal consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333**, appellant No. 2 i.e. son of the deceased is entitled to ₹40,000/- on account of loss of parental consortium and appellant No. 3 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹5,40,868/- detailed as under:-

Loss of dependency(₹1867 x12x17)	₹3,80,868/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Medical expenses	₹10,000/-
Total	₹5,40,868/-

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 amount of compensation, present appeal is disposed of.

January 22, 2019
rts

(Lisa Gill)
Judge

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