

FAO-3704-2009(O&M)

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

FAO-3704-2009(O&M)

Date of Decision: September 03, 2019

Ram Kali and others

Appellants

Versus

Gurmohan Singh and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajesh Goel, Advocate for
Mr. Deepak Saini, Advocate
for LR's NO. 1 to 3 of appellant-Ram Kali.

Mr. Nitin Kamboj, Advocate for
Mr. Munish Mittal, Advocate
for appellants No. 4 to 6.

None for respondent Nos. 1 and 2.

Mr. Neeraj Khanna, Advocate
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

This is an appeal that has been filed seeking enhancement of compensation that has been allowed by the Motor Accident Claims Tribunal, Yamunanagar.

In brief, the facts are that an accident took place on the 6th of September 2007 at 4 PM when Rajesh Kumar (deceased) was returning home after attending his office duty on his motor-cycle. On account of the accident caused by rash and negligent driving by respondent No. 1, the deceased-Rajesh Kumar fell down and suffered multiple injuries. He was taken to Kohli Hospital, Jagadhri from where he was referred to Gaba

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Hospital, Yamunanagar, where he succumbed to his injuries on the same date. An FIR No.122 dated 06.09.2007 was registered under Section 279/304-A of the IPC. While awarding the compensation, the Tribunal on appreciation of the evidence, allowed a sum of ₹18 Lacs to the widow and children of the deceased and awarded a sum of ₹1.60 Lacs to the appellant namely-Ramkali, the mother of the deceased.

Aggrieved, the instant appeal has been filed by Smt. Ram Kali seeking enhancement of the compensation as well as for seeking a larger share out of the compensation so awarded.

Before going into the merits of the case, it is noted that Smt. Ram Kali, mother of the deceased also expired and consequently her legal heirs namely her sons Karambir Singh , Sunil Kumar, and daughter- Rekha Rani were brought on the record to pursue with the appeal. Thereafter, an application was preferred by the respondents No. 4 to 6 seeking to transpose them as appellants being legal heirs of the deceased- Ram Kali as well. This application was allowed by order dated 30.07.2018 and the amended memo of parties showing Ram Kali represented through these legal heirs was taken on the record.

The factum of the accident is not in dispute nor is the fact that Sh. Rajesh Kumar son of Smt. Ram Kali and husband of Smt. Meena Rani- appellant No.4 and father of appellants No.5 and 6 died in an accident which took place on 06.09.2007.

The income of the deceased was stated to be ₹18,828/- per month and the net income after the necessary tax deductions, it would be ₹17,167/- per month. Being a young man of 29 years, holding a permanent

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job, the claimants would be entitled to a 50% increase as future prospects, which income then would be ₹25750/- per month. Since he left behind four dependents namely his mother, widow and two minor children a deduction of 1/4th would be made towards his personal expenses and a multiplier of 17 would be applicable keeping in view his age.

The compensation as allowed by the Tribunal would have to be recalculated in terms of the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

Sr. No.	Heads of claim	Calculation
1	Name of the deceased	Rajesh Kumar
2	Date of accident	06/09/07
3	Age of the deceased	29 years
4	Monthly income of the deceased, taken after deduction of income tax	₹17,167/- per month
5	50% of (4) is to be added towards future prospects	(17167+8583)=25750/-
6	1/4 th of (5) above deducted towards personal expenses	(25750-6437)=19313/-
7	Compensation calculated after applying the multiplier of 17	19313x12x17=39,38,852/-
8	Conventional heads @ ₹70,000/-	70,000/-
9	Total : (7+8)	40,09,852/-

The Tribunal while distributing the compensation had allowed a sum of ₹18 lakhs to be paid to the widow and two minor children of the deceased-Rajesh Kumar and a sum of ₹1,60,000/- to Smt. Ram Kali-mother

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of the deceased-Rajesh Kumar. Since the mother has expired and she is being now represented through her legal heirs- two sons and daughter along with the widow of the deceased-Rajesh Kumar and his two minor sons, this Court is of the opinion that the enhanced compensation ought to be released only in favour of the appellant Nos.4, 5 and 6 , widow and two minor sons of deceased-Rajesh Kumar. There would be no occasion to enhance the share towards the deceased-mother.

The appeal stands allowed accordingly.

September 03, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No