

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

FAO No. 417 of 2010(O&M)

Date of Decision: July 08 , 2019.

Mann Singh and another APPELLANT (s)

Versus

Nasir Ahmad and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate
for the appellants.

Mr. R.N.Singal, Advocate
for respondent No.3 – Insurance company

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

CM No.21700-CII of 2018

Prayer in this application is for listing of the appeal for hearing.

Learned counsel for non-applicant/respondent No.3 does not raise any objection in case the main appeal is taken up for hearing.

Keeping in view the averments made in the application as well as arguments addressed, the application is allowed.

With the consent of the parties, the main appeal is taken on board for final hearing today itself.

FAO No.417 of 2010

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 03.12.2008 on account of death of Jarnail Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Jarnail Singh, who lost his life in a motor vehicle accident which took place on 15.01.2006. FIR No.409 dated 15.11.2006 under Sections 279/337/304A IPC, Police Station Shahbad was registered against respondent No.1-driver. The deceased was claimed to be a skilled driver, earning a sum of ₹15,000/- per month. Amount of ₹20,00,000/- as compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No.JK-03-7786 by respondent No.1-Nasir Ahmad. This finding of the learned Tribunal has attained finality.

Learned Tribunal while assessing income of the deceased to be ₹4,200/- per month being a skilled driver, awarded a total compensation of ₹4,50,000/- to claimants. Deceased was held to be 25 years old at the time of his death. Deduction to the extent of 1/3rd was effected. Multiplier of 13 was applied. ₹13,200/- was awarded on account of funeral expenses.

Aggrieved from the quantum of compensation, present appeal has been filed by the claimants, who are parents of the deceased.

Learned counsel for the appellants argues that the learned Tribunal has erred in applying a multiplier of 13, whereas the deceased was 25 years old at the relevant time. It is further submitted that increment on account of future prospects should be afforded. Compensation under the conventional heads is meagre as well. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal, which does not call for any enhancement. It is submitted that deduction of 1/3rd has been wrongly effected as the deceased was claimed to be unmarried at the time of his death. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Jarnail Singh in a motor vehicle accident which took place on 15.01.2006 due to the rash and negligent driving of the offending truck bearing registration No.JK-03-7786 by respondent No.1-Nasir Ahmad. Neither is there a dispute regarding liability of the Insurance company.

It is a matter of record that deceased-Jarnail Singh was 25 years old at the time of the accident. Income of the deceased is accepted to be ₹4,200/- per month as assessed by the learned Tribunal. However, claimants are entitled to addition in income at the rate of 40% on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company**

Limited v. Pranay Sethi and others, 2017(16) SCC 680.

Learned counsel for the appellants is unable to point out any evidence on record to justify deduction of 1/3rd in the present case. Deduction to the extent of 50% is to be effected in this case keeping in view the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77.**

Learned Tribunal has also erred in applying a multiplier of 13. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that multiplier is to be applied with reference to the age of the deceased. Deceased in this case was admittedly 25 years old at the time of the accident. Hence, multiplier of 18 instead of 13, is required to be applied.

Instead of ₹13,200/- awarded by the learned Tribunal, the claimants are entitled to ₹15,000/- towards funeral expenses, besides, another sum of ₹15,000/- on account of loss of estate. Appellants are held entitled to ₹40,000/- on account of loss of filial consortium in terms of the judgments of the Hon'ble Supreme Court in **Pranay Sethi** (supra) and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333.**

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	4200 p.m. i.e. ₹50,400/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	50,400 + (50,400 x 40%) = 70,560

3.	Income after deduction of 50% on account of personal expenses	70,560 – (70,560 x 1/2) = 35,280
4.	Total dependancy after applying a multiplier of 18	(35,280 x 18) = 6,35,040
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
Grand Total		₹7,05,040/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

July 08 , 2019.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No