

FAO No. 2770 of 2012 (O&M)

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

FAO No. 2770 of 2012 (O&M)

Date of Decision: November 07, 2019

Santosh

..... Appellants(s)

Versus

Jaswant Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vikas Chaudhary, Advocate
for the appellant.

None for respondents no.1, 5 & 8, despite service.

Mr. Ashish Yadav, Adddl. A.G. Haryana,
counsel for respondents no.2 & 3.

Ms. Akash Sridhar, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent no.4.

Service upon respondents no.6, 7 & 9 dispensed with
vide order dated 01.03.2013.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 13.10.2005, passed by learned Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal).

Claimants filed a petition under the Motor Vehicles Act, 1988, seeking compensation on account of death of Sham Lal, due to the injuries

suffered by him in the motor vehicle accident, which took place on 25.09.2002. Deceased was claimed to be 26 years old and an agriculturist, thereby earning Rs.10,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Sham Lal lost his life due to the injuries received by him in the accident in question, which took place on 25.09.2002, due to the rash and negligent driving of the offending bus bearing registration No. HR-46-0249, by its driver Jaswant Singh - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.2,400/- per month by considering him to be a casual labourer, awarded a sum of Rs.3,08,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	2,400/- per month
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	2,400/- minus 800/- = 1,600/-
3.	Dependency after applying multiplier of 15	1,600 x 12 x 15 = 2,88,000/-
4.	Funeral expenses and last rites	20,000/-
	Total	Rs.3,08,000/-

Present appeal has been filed seeking enhancement of the above aforesaid compensation.

Learned counsel for the appellants does not dispute the income of the deceased as assessed by the learned Tribunal but seeks increment towards future prospects. It is further submitted that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble

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Supreme Court **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333**. It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

There is no dispute regarding death of Sham Lal in the motor vehicle accident, which took place on 25.09.2002, due to the rash and negligent driving of the offending bus bearing registration No. HR-46-0249, by its driver Jaswant Singh - respondent no.1. There is also no dispute regarding the income of the deceased as assessed by the learned Tribunal. The deceased was admittedly 26 years old at the time of accident. Keeping in view the judgment of the Hon'ble supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, 40% increment has to be afforded on account of future prospects. Deduction of 1/3rd was correctly effected by learned Tribunal. Multiplier of 17 instead of 15 has to be applied in this case. However, instead of Rs.20,000/- awarded by the learned Tribunal towards funeral expenses/last rites, claimants are entitled to a sum of Rs.15,000/- on account of funeral expenses besides a sum of Rs.15,000/- on account of loss of estate. Appellant-widow is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Reference

in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018(4) RCR Civil 333, as well as decision dated 14.03.2019 of this Court in FAO-2110-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income	2,400 x 12 = 28,800/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	- 9,600/- (28,800 x 1/3) = 19,200/-
3.	Total income after addition at the rate of 40% on account of future prospects	19,200 + 7,680 (19,200 x 40%) = 26,880/-
4.	Dependency after applying multiplier of 17	26,880 x 17 = 4,56,960/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
	Total	5,26,960/-

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

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Appeal is accordingly disposed of.

November 07, 2019.

Sunil

**(LISA GILL)
JUDGE**

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