

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

**FAO No.7236 of 2011
Date of decision:07.05.2019**

Roshni Devi and another

.... Appellants

Vs.

Vivek Kumar and others

....Respondents

CORAM : HON'BLE MR.JUSTICE ARUN KUMAR TYAGI

Present : Mr. J.K.Chauhan, Advocate
for the appellants.

Mr. Darshan Gulati, Advocate for
Mr. Naresh Kaushik, Advocate
for respondents No.1 and 2.

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

ARUN KUMAR TYAGI, J.

1. The claimants-widow and sons of deceased-Chandan Singh have filed the present appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') vide award dated 12.10.2010 passed in **MACT Case No.27 of 2008 titled as Roshni Devi and others Vs. Vivek Kumar and others** on account of death of Chandan Singh due to injuries suffered in a motor vehicle accident which took place on 23.01.2008.

2. Roshni Devi-widow and Chaman Lal and Parveen Kumar-sons of deceased-Chandan Singh filed the above-said

claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the M.V. Act') on the averments that on 23.01.2008 when Chandan Singh and his father Ram Kishan were going towards their house and crossed Ghaghar river bridge, truck bearing Registration No.HR-26-GA-0251 came from Burj Kotian Zone Crusher side driven by respondent No.2 at very high speed in rash and negligent zig-zag manner and hit Chandan Singh due to which he suffered multiple injuries and died on the spot. FIR No.16 dated 23.01.2008 was registered under Sections 279 and 304-A of the Indian Penal Code, 1980 in Police Station Pinjore, District Panchkula.

3. The claimants averred in the claim petition that the deceased was aged about 45 years and was earning ₹10,000/- to ₹15,000/- per month by working as Assistant in Food and Supplies Department, Haryana Government and running business of dairy farming. While claiming themselves to be dependents and legal representatives of the deceased, the claimants prayed for award of compensation of ₹20 lacs with costs and interest at the rate of 18% per annum against respondent No.2-driver, respondent No.1-owner and respondent No.3-insurer jointly and severally.

4. On notice, the claim petition was contested by the respondents. In their joint written statements respondents No.1 and 2 took objections as to maintainability of the claim petition on the ground of no accident having taken place with the truck

bearing registration No.HR-26-GA-0251 and the petition being false and frivolous and denied their liability. In its written statement respondent No.3 took objections as to maintainability, collusion, respondent No.2-driver having no valid and effective driving licence at the time of accident and breach of terms and conditions of the insurance policy by respondent No.1-owner. Respondent No.3 also controverted the material averments made in the petition and denied its liability.

5. The Tribunal framed the issues and recorded the evidence produced by the parties. On perusal of the material on record and consideration of the submissions made by the learned Counsel for the parties the Tribunal held that Chandan Singh died due to injuries suffered in accident caused by rash and negligent driving of truck bearing registration No.HR-26-GA-0251 by respondent No.2. The Tribunal held the claimants to be entitled for payment of compensation for death of Chandan Singh. The Tribunal held the deceased to be aged 45 years and assessed his monthly income as ₹16,850/-. The Tribunal added 30% of the income towards future prospects, deducted 1/3rd towards personal expenses of the deceased. However, in view of grant of financial assistance at the rate of last drawn salary of the deceased for 12 years, the Tribunal assessed compensation for loss of dependency restricting the same to 2 years as ₹3,50,500/-, added amount of ₹5,000/- towards transportation of the dead body, ₹10,000/- towards funeral expenses and amount of ₹5,000/-

payable to claimant No.1 towards loss of consortium and awarded total compensation of ₹3,70,500/-. The Tribunal held that respondent No.2-driver had valid and effective driving licence and respondent No.1-owner had the requisite route permit and respondents No.1 to 3 were jointly and severally liable to pay the compensation. The Tribunal accordingly directed the respondents No.1 to 3 to pay the compensation amount with costs and interest at the rate of 7.5% from the date of filing of the petition till realization.

6. Feeling aggrieved, the claimants have filed present appeal for enhancement of compensation.

7. I have heard arguments addressed by learned Counsel for the parties and have gone through the record.

8. Learned Counsel for the appellants has argued that claimant No.1 being widow and claimants No.2 and 3 being unemployed major sons of the deceased wholly dependent on him were entitled to payment of compensation for his death. The deceased-Chandan Singh was 45 years of age and was employed as Assistant in Food and Supplies Department, Haryana Government. RW-1 Rajan Gosain admitted that on implementation of the 6th Pay Commission Report in Haryana, salary of deceased-Chandan Singh would have been ₹20,222/- The deceased was earning ₹30,000/- per annum from agriculture and ₹5,000/- per month by carrying on dairy business. The Tribunal did not properly assess the income of the deceased and

erred in taking income of the deceased as ₹16,850/- instead of 20,222/-. The Tribunal ought to have deducted 1/4th towards personal expenses of the deceased. The amount of pension, G.I.S., Provident Fund and financial assistance paid to the claimants was not liable to be deducted from the compensation payable to the claimants. The Tribunal erred in deducting the compensation payable for loss of dependency of 12 years from the total compensation and granting compensation for loss of dependency only for 2 years. In support of his arguments, learned Counsel for the appellants has placed reliance on the observations in **FAO 589-2010 (O&M) titled Oriental Insurance Company Ltd. Vs. Saroj Devi and others decided on 21.12.2011; Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945 and FAO 3064-2013 (O&M) titled Kamla Devi and others Vs. Sahib Singh and others decided on 30.11.2017.**

9. Learned Counsel for the appellants has further argued that the Tribunal awarded meager amounts towards transportation, funeral expenses and loss of consortium and the Tribunal did not award any amount towards loss of estate. In view of the observations in **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & others : 2018(4) RCR (Civil) 333**, the claimants are entitled to award of compensation for loss of consortium at the rate of ₹40,000/- each and in view of the observations in **National Insurance Company Limited Vs.**

Pranay Sethi and others : 2017 (4) R.C.R. (Civil) 1009, the claimants are entitled to award of ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate. The Tribunal ought to have awarded interest at the rate of 12% per annum and erred in awarding interest at the rate of 7.5% per annum. Therefore, the impugned award may be modified and the compensation awarded by the Tribunal may be enhanced.

10. On the other hand learned Counsel for the respondents have argued that the claimants No.2 and 3 being healthy and able bodied persons aged 23 and 20 years respectively could not be said to be dependent on the deceased and were not entitled for payment of compensation on account of his death. The claimants did not produce any documentary evidence to prove income of the deceased from agriculture and dairy farming. Income of the deceased was rightly assessed by the Tribunal. The Tribunal rightly deducted 1/3rd towards personal expenses of the deceased and applied multiplier of 14. The amount of financial assistance payable to the claimant No.1 for a period of 12 years at the rate of last drawn salary and allowance of the deceased under **the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006** was liable to be deducted from the compensation payable to the claimants. The Tribunal rightly deducted the amount of financial assistance from the compensation payable to the claimants. The Tribunal awarded just and adequate

compensation with appropriate rate of interest which is not liable to be enhanced. Therefore, the appeal may be dismissed.

11. So far as the claim as to entitlement of the claimants for payment of compensation for death of deceased-Chandan is concerned, PW-2 Roshni Devi testified that deceased-Chandan Singh left behind her being his widow, claimant No.2-Chaman Lal son aged about 23 years and claimant No.3-Parveen Kumar son aged about 20 years as his only legal heirs and all of them were solely dependent on the income of the deceased. In her cross-examination, PW-2 Roshni Devi stated that her elder son who had completed his graduation was idle and her younger son was doing his graduation. This testimony of PW-2 Roshni Devi had gone virtually un rebutted and unchallenged and therefore, deserved to be relied and acted upon. Since, claimants No.2 and 3, despite being healthy and able bodied persons aged 23 and 20 years, were in fact unemployed, they must be held to be dependent on their deceased father and to be entitled for payment of compensation for his death.

12. So far as the question of income of the deceased at the time of his death is concerned, PW-2 Roshni Devi testified that deceased was employed as Assistant in Food and Supplies Department, Haryana Government and was getting salary of ₹13,000/- per month and that the deceased was also having income of ₹30,000/- per annum from agriculture and income of ₹5,000/- per month from dairy farming. However, in her cross-

examination PW-2 Roshni Devi admitted that she did not have any documentary proof of income of ₹30,000/- per annum from agricultural land and also to prove that her husband was carrying on any dairy farming business. In the absence of any documentary evidence, self-serving testimony of PW-2 Roshni Devi as to the deceased having income of ₹30,000/- per annum from agriculture and ₹5,000/- per month from dairy farming could not be relied upon and was rightly disbelieved by the Tribunal. Testimony of PW-2 Roshni Devi as to employment and income of the deceased as Assistant in Food and Supplies Department, Haryana Government is supported by photocopy of salary statement of the deceased Ex.P-10 and admission of RW-1 Rajan Gosain. As per salary statement Ex.P-10, last drawn salary of the deceased in December, 2007 was ₹12,941/- including basic pay ₹5,900/- + ₹2,950/- D.P., D.A. ₹3,629/-, Spl. Pay ₹12/-, C.C.A./W.A. ₹200/-, M.F.D./C.A. ₹250/- out of which amount of ₹4025/- was deducted towards G.P.F. and amount of ₹500/- was deducted towards scooter advance, amount of ₹30/- was deducted towards G.I.S. and amount of ₹48/- was deducted towards house rent.

13. Admittedly, the pay of Haryana Government employees was revised w.e.f. 01.01.2006 as per the recommendations of 6th Pay Commission in the year 2010 after the death of Chandan Singh. As per statements copies Ex.R-7 and Ex.R-8 basic pay of the deceased was revised as ₹14,600/-

w.e.f. 01.01.2006 and his gross salary inclusive of dearness allowance of ₹1752/- at the rate of 12% and medical allowance of ₹500/- payable at the time of his death was ₹16,852/- which is rounded off as ₹16,850/-.

14. RW-1 Rajan Gosain testified that as per record date of birth of deceased-Chandan Singh is 19.04.1962. The deceased is proved by the evidence on record to be aged 45 years at the time of his death. Since, the deceased aged 45 years was permanent Haryana Government employee, addition of 30% was required to be made and was rightly so made by the Tribunal to the income of the deceased towards future prospects in view of the observations made by Hon'ble Supreme Court in para No.61(iii) of its judgment in **National Insurance Company Limited Vs. Pranay Sethi and others : 2017 (4) R.C.R. (Civil) 1009**. When so added income of the deceased at the time of his death comes to ₹16,850 + ₹5,055/- = ₹21,905/-.

15. However, the Tribunal was required to make statutory deduction of income tax from gross salary of the deceased for assessment of his income. Reference in this regard may be made to the observations in **National Insurance Company Ltd. Vs. Indira Srivastava and others, 2008 (1) RCR (Civil) 359; Shyamwati Sharma and others Vs. Karam Singh and others, 2010 (3) RCR (Civil) 741(SC) and Ranjana Prakash Vs. Divisional Manager and another, 2011 (4) RCR (Civil) 218**. As per rates of personal income tax for the assessment year 2008-

09, income tax of ₹17,304/- would be payable on taxable income of ₹2,14,000/- after excluding exempted income of ₹48,860/- under Section 80C out of total income of ₹2,62,860/-. After deduction of income tax net income of the deceased comes to ₹20,463/- per month and ₹2,45,556/- per annum.

16. In view of the number of claimants-widow and two sons dependent on the deceased being three and observations made by Hon'ble Supreme Court in para No.14 of its judgment in **Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) R.C.R. (Civil) 77**, $1/3^{\text{rd}}$ of the income of the deceased was required to be deducted and was rightly deducted by the Tribunal towards his personal expenses. On deduction of $1/3^{\text{rd}}$ of the income of the deceased towards his personal expenses annual dependency of the claimants on the deceased comes to ₹20,463 – ₹6,821 ($1/3^{\text{rd}}$) = ₹13,642/- x 12 = ₹1,63,704/-

17. Hon'ble Supreme Court observed in para No.61(vii) of its judgment in **National Insurance Company Limited Vs. Pranay Sethi and others : 2017 (4) R.C.R. (Civil) 1009** that the age of the deceased should be the basis for applying the multiplier. In view of observations made by Hon'ble Supreme Court in para No.21 of its judgment in **Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) R.C.R. (Civil) 77** and age of the deceased being 45 years, multiplier of 14 was applicable. When multiplier of 14 is applied to annual dependency of ₹1,63,704 of the claimants on the deceased, compensation for

loss of dependency of the claimants on the deceased comes to
 $\text{₹}1,63,704 \times 14 = \text{₹}22,91,856/-$

18. In the present case, the Tribunal merely awarded amount of ₹5,000/- towards transportation of the dead body, ₹10,000/- towards funeral expenses and ₹5,000/- towards loss of consortium and did not award any amount towards loss of estate.

In National Insurance Company Limited Vs. Pranay Sethi and others : 2017 (4) R.C.R. (Civil) 1009, while answering the reference on **31.10.2017** Hon'ble Supreme Court observed in para No.61 (viii) of its judgment that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be ₹15,000/-, ₹40,000/- and ₹15,000/- respectively. In the said case, Hon'ble Supreme Court further observed that the aforesaid amounts should be enhanced at the rate of 10% in every three years. As a corollary to above observations of Hon'ble Supreme Court for enhancement of the figures on conventional heads at the rate of 10% in every three years for assessment of compensation in cases arising in future, the figures on conventional heads will be liable to reduction at the rate of 10% for every three years for assessment of compensation in cases which have arisen in the past. In the present case the accident took place on **23.01.2008** and therefore, the amounts under conventional heads will be liable to be reduced by **30%**. In **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) R.C.R. (Civil) 333** Hon'ble

Supreme Court clarified that in legal parlance ‘consortium’ is compendious term which encompasses ‘spousal consortium’, ‘parental consortium’ and ‘filial consortium’ and awarded compensation of ₹40,000/- each for loss of filial consortium to father and sister of the deceased. However, the Bench observed in para No.8.7 of its judgment that the amount of compensation to be awarded for loss of consortium will be governed by the principles of awarding compensation under ‘Loss of Consortium’ as laid down in **National Insurance Company Limited Vs. Pranay Sethi and others : 2017 (4) R.C.R. (Civil) 1009**. In view of the above judicial precedents, the claimants are entitled to award of compensation of ₹28,000/- towards loss of spousal and parental consortium and ₹10,500/- towards funeral expenses and ₹10,500/- towards loss of estate.

19. Accordingly, compensation payable to the claimants on account of death of Chandan Singh is tabulated as under:-

Sr. No.	Head	Compensation
1.	Monthly income of the deceased (after adding 30% future prospects and deduction of income tax)	₹20,463/- per month
2.	Deduction of 1/3 rd on account of personal expenses	₹20463 – ₹6821 (1/3 rd) = ₹13,642/-
3.	Annual Dependency	₹13642 x 12 = ₹1,63,704/-
4.	Loss of Dependency	₹1,63,704 x 14 = ₹22,91,856/-
5.	Funeral Expenses	₹10,500/-
6.	Compensation payable for loss of spousal, parental and filial consortium	₹28,000/-
7.	Loss of Estate	₹10,500/-
	Total Compensation	₹23,40,856/-

20. RW-1 Rajan Gosain has testified that on death of Chandan Singh payment of ex-gratia amount of ₹25,000/-, G.P.F. amount of ₹3,36,230/-, leave salary amount of ₹1,30,100/-, G.I.S. amount of ₹30,13,821/- and amount of arrears of leave salary of ₹36,800/- was made to Smt. Roshni Devi-widow of the deceased.

21. However, ex-gratia amount and GPF, leave salary and GIS amounts paid by Government of Haryana to claimant No.1-widow of deceased-Chandan Singh are not liable to be deducted from the amount of compensation payable to the claimants for loss of dependency. For judicial precedents in support of this view reference may be made to the decisions in **Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945** and **Municipal Corporation and another Vs. Smt. Ajit Kaur and others : 2008 (3) RCR (Civil) 29**.

22. Haryana Government vide notification dated 01.08.2006 made **the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006** to grant the compassionate assistance to the family members of Government employee who died while in service or was missing.

23. Admittedly, vide letter dated 12.05.2008 copy Ex.R-6 claimant No.1-Roshni Devi widow of deceased-Chandan Singh has been given financial assistance under **the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006** for 12 years at the rate of

sum equal to the pay and other allowances last drawn by the deceased.

24. It may be observed here that as per salary statements copy Ex.R-7 and Ex.R-8 and salary slip Ex.R-9 financial assistance was granted to claimant No.1 Roshni Devi at the rate of ₹19,054/- for the months of October, November and December, 2009 and January, February and March, 2010 and at the rate of ₹20,222/- for the month of April and May, 2010. The amount of financial assistance to be granted to claimant No.1 Roshni Devi cannot be determined with exactitude due to variable increase in the rate of dearness allowance in future which cannot be ascertained at this stage even by wildest guess. In the facts and circumstances of the case, it will be just and proper to determine the amount of financial assistance payable to claimant No.1 Roshni Devi by calculating the same for the period of 25 months from February, 2008 to March, 2010 **at the rate of ₹19,054/- per month** as per statement copy Ex.R-8 amounting to ₹4,76,350/- and for the remaining period of 119 months **at the rate of ₹20,222/- per month** as per statement copy Ex.R-7 amounting to ₹24,06,418/- totaling ₹28,82,768/-.

25. The question which arises is as to whether the amount of financial assistance granted to claimant No.1 Roshni Devi widow of the deceased is liable to be deducted from the amount of compensation payable to the claimants.

26. In **Reliance General Insurance Co. Ltd. Vs. Shashi Sharma and others : 2016(4) RCR (Civil) 569** Hon'ble Supreme Court held that the amount of financial assistance granted to dependents of Haryana Government employee under **the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006** on his death due to injuries suffered in motor vehicle accident is liable to be deducted from the amount of compensation payable to his legal representatives under the M.V. Act for his death. In that case Hon'ble Supreme Court observed in para No.21, 22 and 23 as under:-

"21. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased Government employee against the tortfeasor or Insurance Company, as the case may be, covered by the first part of Rule 5 under the Act of 1988. The claimants or dependents of the deceased Government employee (employed by State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5 - "pay and allowances", which are receivable by them from employer (State) under Rule 5 (1) of the Rules of 2006. In that, if the deceased employee was to survive the motor accident injury, would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased Government employee entailing in grant of bonanza, largesse or source of profit to the dependents/claimants. Somewhat similar situation has been spelt out in Section 167 of the Motor Vehicles Act, 1988, which reads thus:

"167. Option regarding claims for compensation in certain cases.—

Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923)

where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."

22. Indeed, similar statutory exclusion of claim receivable under the Rules of 2006 is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of Pay and wages of the deceased has already been or will be compensated by the employer in the form of ex-gratia financial assistance on compassionate grounds under Rule 5 (1). The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the accident can still be pursued by them in their claim under the Act of 1988. For, it is not covered by the Rules of 2006. Similarly, other benefits extended to the dependents of the deceased Government

employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependents of the deceased Government employee, applying the principle expounded in Helen C.Rebello and Patricia Jean Mahajan's cases (supra).

23. A Priori, appellants must succeed only to the extent of amount receivable by the dependents of the deceased Government employee in terms of Rule 5(1) of the Rules 2006, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified.”

27. However, in **FAO 3064-2013 (O&M) titled Kamla Devi and others Vs. Sahib Singh and others decided on 30.11.2017** an Hon’ble Coordinate Bench of this Court observed as under:-

“The question that calls for determination is, whether the entire amount payable to family of the deceased under the Rules of 2006 is amenable to deduction for computing compensation payable to the claimants. There is no dispute that the deceased was a regular employee of Haryana Roadways and his job is pensionable. Perusal of the judgment in Shashi Sharma's case (supra) would reveal that Hon'ble the Apex Court has not adverted to the issue that had the Rules of 2006 extending assistance to family of the deceased employee been not in existence, family would have been entitled to pension to the extent of 50% of the last drawn pay. As per the settled position in law, pensionary benefits available to family of the deceased employee are not amenable to deduction for computing loss of dependency. Under the circumstances, in case deduction to the extent of Rs.19,85,472/- is allowed, the Rules of 2006 would operate prejudicially against the claimants causing loss of pensionary benefits to which family of deceased was entitled from the date of death till the age of superannuation which can neither be spirit of the Rules nor of the judgment of Hon’ble the Supreme Court as the provisions of the Motor Vehicles Act providing for compensation to the victim family is a benevolent legislation framed with an avowed social

object to achieve. In view of the above, it is expedient in the interest of justice that only 50% amount to be paid to family of the victim would be deducted out of compensation assessed.”

28. In view of the above referred judicial precedents, amount of ₹14,41,384/- being 50% of the amount of ₹28,82,768/- payable to claimant No.1 Roshni Devi widow of the deceased towards financial assistance under **the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006** for 12 years will be liable to be deducted from the amount of compensation payable to the claimants for death of Chandan Singh.

29. When the amount of ₹14,41,384/- being 50% of the amount of ₹28,82,768/- payable to claimant No.1 Roshni Devi widow of the deceased towards financial assistance under **the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006** is deducted from the compensation amount of ₹23,40,856/-, the compensation amount payable to the claimants comes to ₹8,99,472/-.

30. In the present case, the Tribunal directed the payment of compensation amount with interest at the rate of 7.5% per annum from the date of award till realization of the whole amount which is challenged to be inadequate and the question which arises is as to what would be the appropriate rate of interest.

31. In **Puttamma and others Vs. K.L.Narayana Reddy and another 2014 (1) R.C.R. (Civil) 443**, Hon'ble Supreme Court

observed in para 60 as under:-

“This Court in **Abati Bezbaruah Vs. Deputy Director General, Geological Survey of India and another (2003) 3 SCC 148** noticed that varying rate of interest is being awarded by the Tribunals, High Courts and this Court. In the said case, this Court held that the rate of interest must be just and reasonable depending on the facts and circumstances of the case and should be decided after taking into consideration relevant factors like inflation, change in economy, policy being adopted by the Reserve Bank of India from time to time, how long the case is pending, loss of enjoyment of life etc.”

32. In **Supe Dei and others Vs. National Insurance Company Ltd. and another 2009 (4) SCC 513**, Hon'ble Apex Court held that 9% per annum would be the appropriate rate of interest to be awarded in Motor Accidents Claims compensation cases.

33. In **Sube Singh and another Vs. Shyam Singh (Dead) and others 2018 (2) R.C.R. (Civil) 131 (SC)** rate of interest of 6% per annum awarded by the Motor Accidents Claims Tribunal was modified by Hon'ble Supreme Court of India to 9% per annum.

34. In view of the observations in above referred judicial precedents, R.B.I.'s lending rate of interest, mercantile rate of interest prevalent, rate of interest allowed by Nationalized Banks on fixed deposit receipts and other relevant factors, it will be appropriate to modify the rate of interest of 7.5% per annum awarded by the Tribunal to 9% per annum from the date of filing of the claim petition till realization.

35. It follows from the above discussion that claimants are entitled to payment of compensation of ₹8,99,472/- with costs and interest at the rate of 9% per annum from the date of filing of the petition till realization. The amount of ₹3,70,500/- awarded to the claimants by the Tribunal shall be liable to be deducted from the above-said amount. Out of the enhanced amount of ₹5,28,972/-, amount of ₹3,28,972/- shall be payable to claimant No.1-widow and amount of ₹1,00,000/- each shall be payable to claimants No.2 and 3 sons of the deceased. 50% of the enhanced compensation as per their shares shall be payable to the claimants in cash and remaining 50% shall be deposited in FDRs in their names in some nationalized Bank for three years.

36. The appeal is, accordingly, allowed with costs in terms of the above said modifications of the award dated 12.10.2010.

(ARUN KUMAR TYAGI)
JUDGE

07.05.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No