

FAO No. 10578 of 2014

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

FAO No. 10578 of 2014

Date of Decision: March 05, 2019

Harinder Kaur and others

..... Appellants(s)

Versus

Sukhdev Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Aayush Gupta, Advocate
for the appellants.

Respondent no.1 already proceeded against *ex parte*.

None for respondent no.2.

Mr. Vinod Chaudhary, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 06.11.2013, passed by learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal').

Claimants-appellants filed petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Jaswinder Singh in a motor vehicle accident, which took place on 03.09.2010.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that death of Jaswinder Singh was caused in a motor vehicle accident, which took place on 03.09.2010, due to the rash and negligent driving of the offending tractor bearing registration No. PB-65(T)-0810 by its driver Sukhdev Singh-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.6,000/- per month while treating him to be an agriculturist, awarded a sum of Rs. 9,89,000/- as compensation to the appellants-claimants, the detail of which is as under:-

<i>Sr. No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income # 6,000 x 12	72,000/- per annum
2.	1/3 rd deducted as personal expenses of the deceased	72,000- 24,000 = 48,000/-
3.	Compensation after applying a multiplier of 18	48,000 x 18 = 8,64,000/-
4.	Funeral expenses	25,000/-
5.	Loss of consortium	1,00,000/-
	Grand Total	Rs. 9,89,000/-

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

Learned counsel for the appellants submits that increment on account of future prospects has not been afforded. It is further submitted that compensation under the conventional heads is meagre, though it is fairly stated that compensation to appellant no.1 towards loss of consortium

may be reworked in terms of the judgments of the Hon'ble Supreme Court in **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**. Rate of interest is also on the lower side. It is, thus, prayed that compensation may be enhanced.

Learned counsel for respondent no.3-insurance company, however, prays that the impugned award dated 06.11.2013 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Jaswinder Singh in the motor vehicle accident, which took place on 03.09.2010, due to the rash and negligent driving of the offending tractor bearing registration No. PB-65(T)-0810 by its driver Sukhdev Singh-respondent no.1. Claimants are the widow, minor child and mother of the deceased Jaswinder Singh who was admittedly 23 years old at the time of accident. Learned counsel for the appellants has not raised any dispute regarding the income of the deceased as assessed by the learned Tribunal i.e. Rs.6,000/- per month. In terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, 40% increment

towards future prospects has to be afforded. Deduction of 1/3rd was correctly effected by learned Tribunal. As the deceased was admittedly 23 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Appellants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate. Instead of a sum of Rs.1,00,000/- awarded on account of loss of consortium to the widow, she is held entitled to a sum of Rs.40,000/-. In terms of *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018(4) RCR Civil 333, appellants no.2 & 3 are also entitled to a sum of Rs.40,000/- each on account of loss of consortium (parental and filial).

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 # 6,000 – 1/3 rd = 4,000/-	48,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	48,000+19,200 (48,000 x 40%) = 67,200/-
3.	Total dependency after applying a multiplier of 18	67,200 x 18 = 12,09,600/-
4.	Funeral expenses	15,000/-
5.	Loss of estate	15,000/-
6.	Loss of consortium to appellant no.1	40,000/-
7.	Loss of consortium (parental and filial) to appellants no. 2 & 3 i.e. 40,0000 x 2	80,000/-
	Grand Total	Rs.13,59,600/-

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 instead of 6% 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.

Appeal is accordingly disposed of.

March 05, 2019.

Sunil

**(LISA GILL)
JUDGE**

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