

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

FAO No. 2125 of 2014

Date of Decision: July 25 , 2019.

Paramjit Kaur and others

..... APPELLANT (s)

Versus

Nishan Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Swarn Sandhir, Advocate
for the appellants.

Mr. Banni Thomas, 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.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Patiala (for short, the 'Tribunal') vide impugned award dated 07.11.2013 on account of death of Ranjit 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 Ranjit Singh, who lost his life in a motor

vehicle accident which took place on 05.01.2011. FIR No.13 dated 05.01.2011 (Ex.P2) was registered against respondent No.1 in respect to the incident.

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 Bolero Pick-Up bearing registration No.PB-11-AQ-9966 by respondent No.1-Nishan Singh.

Learned Tribunal while assessing income of the deceased to be ₹6,000/- per month, awarded a total amount of ₹7,01,000/- to the claimants. Deceased was held to be between 36 to 40 years old at the time of the accident. Deduction to the extent of 1/3rd was effected. Multiplier of 12 was applied. ₹25,000/- was awarded towards funeral expenses, besides, ₹1,00,000/- to the claimant-widow on account of loss of consortium.

Learned counsel for the appellants argues that the deceased was earning income, much higher than as assessed by the learned Tribunal. It is further submitted that increment on account of future prospects should be afforded. It is submitted that deduction of 1/4th towards personal expenses should be effected in this case. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3 submit that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. 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 Ranjit Singh in a motor

vehicle accident which took place on 05.01.2011 due to the rash and negligent driving of the offending vehicle bearing registration No.PB-11-AQ-9966 by respondent No.1-Nishan Singh. Finding of the learned Tribunal in this regard has attained finality.

Deceased-Ranjit Singh is averred to be doing the work of contractor, earning ₹15,000/- per month. Except a bald assertion of the claimants, there is no evidence on record to indicate that deceased-Ranjit Singh was earning an income, higher than ₹6,000/- per month as has been assessed by the learned Tribunal. Income of the deceased is, thus, upheld to be ₹6,000/- per month.

Learned Tribunal has calculated the age of the deceased to be between 36 to 40 years at the time of his death. There is no challenge to this finding by the respondents. The same is thus upheld. Keeping in view the age of the deceased, addition in income at the rate of 40% is afforded 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**. Age of deceased-Ranjit Singh being 36 to 40 years at the time of the accident, multiplier of 15 instead of 12, has to be applied. Learned Tribunal has erred in effecting deduction of 1/3rd towards personal expenses as number of dependants are admittedly five. Therefore, deduction to the extent of 1/4th shall 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**.

Instead of ₹25,000/- towards funeral expenses, ₹15,000/- each is awarded towards of loss of estate and funeral expenses. Appellant No.1 is held

entitled to ₹40,000/- for loss of consortium instead of ₹1,00,000/-, appellants No.2 to 4 i.e., children of the deceased, are entitled to ₹40,000/- for loss of parental consortium and appellant No.5 i.e., mother of the deceased, is held entitled to ₹40,000/- for loss of filial consortium in terms of 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 No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

Appellants 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 p.m. i.e. ₹72,000/- per annum
2.	Total income after addition at the rate of 10% on account of future prospects	72,000 + (72,000 x 40%) = 1,00,800
3.	Deduction of 1/4 th on account of personal expenses	1,00,800 – (1,00,800 x 1/4) = 75,600
4.	Total dependancy after applying a multiplier of 15	(75,600 x 15) = 11,34,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 to 4	40,000
9.	Loss of filial consortium to appellant No.5	40,000
Grand Total		₹12,84,000/-

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.

July 25 , 2019.
'mohinder/om'

(**LISA GILL**)
JUDGE

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