

FAO No. 1705 of 2015

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

FAO No. 1705 of 2015

Date of Decision: August 22, 2019

Salma and others

..... Appellants(s)

Versus

Lalit and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. B.S. Brar, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate and
Mr. Akash Sridhar, Advocate
for respondent no.2-insurance company.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 06.10.2014, passed by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal).

Appellants-claimants who are the widow, three minor children and parents of the deceased Momin, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Momin due to the injuries suffered by him in the motor vehicle accident, which took place on 24.04.2012. Deceased was claimed to be a cleaner on the vehicle he was travelling in at the time of the accident.

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Learned Tribunal on considering the evidence on record concluded that Momin lost his life due to the injuries received by him in the accident in question, which took place on 24.04.2012 due to the rash and negligent driving of the offending canter bearing registration No. HR-62-1624, by its driver Lalit-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.8,000/- per month with reference to the minimum wages available to a cleaner/unskilled labourer in the State of Haryana at the time of the accident, awarded a sum of Rs.13,06,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	8,000/- per month
2.	Income after deducting 1/4 th as personal living expenses of the deceased	$8000 - 1/4^{\text{th}} = 6,000/-$ per month
3.	Dependency after applying multiplier of 18	$6000 \times 18 \times 12 = 12,96,000/-$
4.	Funeral expenses	10,000/-
	Total	13,06,000/-

Present appeal has been filed seeking enhancement of the 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 fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **National Insurance Company Limited v. Pranay Sethi**

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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.

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

There is no dispute regarding death of Momin in the motor vehicle accident, which took place on 24.04.2012, due to the rash and negligent driving of the offending canter bearing registration No. HR-62-1624, by its driver Lalit-respondent no.1. No dispute has been raised regarding the age of the deceased i.e. 27 years at the time of the accident or of the income of Rs. 8,000/- per month as assessed by the learned Tribunal. 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 1/4th was correctly effected by learned Tribunal. Multiplier of 17 instead of 18 has to be applied in this case. Instead of a sum of Rs.10,000/- awarded towards funeral expenses, the appellants are entitled to a sum of Rs.15,000/- each towards funeral expenses and loss of estate. Appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 to 4 are entitled to a sum of

Rs.40,000/- towards loss of parental consortium. Appellants no.5 & 6 are entitled to a sum of Rs. 40,000/- towards loss of filial 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-2011-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

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

Sr. No.	Heads	Calculations
1.	Income	8,000 x 12 = 96,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	96,000 - 24,000/- (1/4 th) = 72,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	72,000 + 28,800 (57,600 x 40%) = 1,00,800/-
4.	Dependency after applying multiplier of 17	1,00,800 x 17 = 17,13,600/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 to 4	40,000/-
9.	Loss of filial consortium to appellant no.5 and 6	40,000/-
	Total	18,63,600/-

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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.

Appeal is accordingly disposed of.

August 22, 2019.

Sunil

**(LISA GILL)
JUDGE**

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