

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

FAO No. 4026 of 2014(O&M)

Date of Decision: September 06 , 2019.

Banti Devi and others

..... APPELLANT (s)

Versus

Vakil Ahmad and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashwani Bhardwaj, Amicus Curiae and
Mr. Surender Saini, Advocate
for the appellants.

Mr. R.S.Malik, Advocate
for respondent No.1.

Mr. Ashwani Arora, Advocate
for respondent No.2.

Mr. R.K.Bashamboo, Advocate
for respondent No.3 – Insurance company

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, Sonipat (for short, the 'Tribunal') vide impugned award dated 17.08.2013 on account of death of Lala Ram 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 Lala Ram, who lost his life in a motor vehicle accident which took place on 22.02.2010. FIR No.44 dated 22.02.2010,

under Sections 279/304A IPC, Police Station Rai was registered against respondent No.1-driver in respect to the incident. It is pleaded that deceased-Lala Ram, aged 52 years, was serving as Deputy Manager in Indian Oil Corporation, drawing a salary of ₹82,869/- per month. Compensation was thus prayed for.

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 canter bearing registration No.UA-07G-5617 by respondent No.1. Learned Tribunal while assessing income of the deceased to be ₹58,000/- per month less income tax of ₹24,000/-, awarded a total amount of ₹38,43,033/- to the claimants. Deduction to the extent of 1/3rd was effected. Multiplier of 11 was applied. ₹5,000/- was awarded on account of funeral expenses, besides, ₹7,500/- towards loss of estate. A sum of ₹7,500/- was afforded towards loss of consortium.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed. It is submitted that increment on account of future prospects has not been afforded. Compensation under the conventional heads, it is submitted, is also meagre. It is thus prayed that the amount of compensation awarded to the appellant be enhanced accordingly.

Per contra, learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits 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 record.

There is no dispute regarding death of Lala Ram in a motor vehicle accident which took place on 22.02.2010 due to the rash and negligent driving of the offending vehicle bearing registration No.UA-07G-5617 by respondent No.1- Vakil Ahmad. Finding of the learned Tribunal in this regard has attained finality.

In order to prove the income of the deceased, the claimants have led categoric and positive evidence on record. PW4 Deepak Pant, Accounts Officer, Northern Region Office, Indian Oil Corporation Ltd. has proved the Salary Certificate (Ex.P2), besides, appointment letter (Ex.P3) as well as other documents as Ex.P4 to P18 pertaining to the service of the deceased-Lala Ram.

Learned counsel for respondent-Insurance company is unable to deny that as per the tabulation given in the Income Tax Return of the deceased for the assessment year 2009-2010, basic salary of the deceased was ₹48,650/-, ₹15,033/- DA and ₹14,595/- HRA, ₹1,200/- Prof. Upd. Allowance, ₹2,500/- shift allowance and ₹1,100/- children education allowance. It is not denied that the amount received by the deceased as above has to be assessed as his income i.e., a total of ₹83,080/- per month. After deduction of the component of income tax at the rate of ₹20,250/- per month, income of the deceased is thus assessed as ₹62,830/- per month.

Increase in income on account of future prospects at the rate of 15% is afforded in terms of the judgment of the Hon'ble Supreme in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** as the deceased was 52 years old. Deduction to extent of 1/3rd has been correctly effected. Multiplier of 11 has also been rightly applied. Instead of ₹5,000/-

towards funeral expenses and ₹7,500/- towards loss of estate, ₹15,000/- each is awarded towards funeral expenses and loss of estate. Appellant No.1 is held entitled to ₹40,000/-, instead of ₹7,500/- on account of loss of spousal consortium and both the children are entitled to ₹40,000/- towards loss of parental 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).

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	62,830 per month i.e., 7,53,960 per annum
2.	Total income after addition at the rate of 15% on account of future prospects	7,53,960 + (7,53,960 x 15%) = 8,67,054
3.	Deduction of 1/3 rd on account of personal expenses	8,67,054 – (8,67,054 x 1/3) = 5,78,036
4.	Dependancy after applying a multiplier of 11	(5,78,036 x 11) = 63,58,396
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 and 3	40,000
Grand Total		₹64,68,396/-

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 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.

September 06 , 2019.
'om'

(**LISA GILL**)
JUDGE

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