

FAO No. 2424 of 2015 (O&M)

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

FAO No. 2424 of 2015 (O&M)

Date of Decision: February 20, 2019

Smt. Ritu and others

..... Appellants(s)

Versus

Krishan Kumar and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashwani Antil, Advocate
for the appellants.

Mr. D.K. Prajapati, 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 29.10.2014, passed by learned Motor Accidents Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal).

Undisputed facts of the case are that Suresh (since deceased) lost his life in a motor vehicle accident, which took place on 08.12.2013, caused due to the rash and negligent driving of the offending car bearing registration No. HR-10U-5120 by its driver Krishan Kumar - respondent no.1. Claimants i.e. widow, minor child and mother of the deceased preferred a claim petition under Section 166 of the Motor Vehicles Act, 1988. Learned Tribunal on considering the evidence on record, facts and circumstances concluded that the accident in question was caused due to the rash and negligent driving of car bearing registration no. HR-10U-5120 by its driver Krishan Kumar –

respondent no.1 on 08.12.2013. Finding of the learned Tribunal on this issue has attained finality.

Learned Tribunal, while assessing the income of the deceased to be Rs.6,000/- per month, awarded a sum of Rs. 9,89,000/- 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/- p.m.
2.	1/3 rd deducted as personal expenses of the deceased	6000 - 1/3 rd = 4,000/-
3.	Compensation after applying a multiplier of 18	4000 x 12 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 there is no dispute regarding the income of the deceased as assessed by the learned Tribunal. However, increment on account of future prospects should be awarded. Furthermore, the appellants have no objection in case the compensation under the conventional heads is reworked in terms of *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.*, in Civil Appeal No.9581 of 2018 decided on 18.09.2018.

Learned counsel for respondent no.2-insurance company, however, prays that the impugned award dated 29.10.2014 does not call for

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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 the death of Suresh in the motor vehicle accident, which was caused on 08.12.2013 due to the rash and negligent driving of the offending vehicle by its driver Krishan Kumar – respondent no.1. It is further not disputed that the deceased was 24 years old at the time of the accident. Income of the deceased as assessed by the learned Tribunal as Rs.6,000/- per month is not under challenge. Keeping in view the judgment of Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680*, 40% increment to be afforded. Deduction of 1/3rd was correctly effected by learned Tribunal. As the deceased was admittedly 24 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Instead of a sum of Rs.25,000/- awarded towards funeral expenses, the claimants are entitled to Rs.15,000/- each towards funeral expenses and loss of estate. Claimant-appellant no.1 is entitled to a sum of Rs.40,000/- instead of Rs.1,00,000/- awarded on account of loss of consortium and appellants no. 2 and 3 are entitled to Rs.40,000/- each on account of loss of consortium (parental and filial) in terms of the judgment of Hon'ble Supreme Court in *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*, in Civil Appeal No.9581 of 2018 decided on 18.09.2018.

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 # 6000 – 1/3 rd = 4,000/- x 12	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 and loss of estate 15,000 x 2	30,000/-
5.	Loss of consortium to appellant no.1	40,000/-
6.	Loss of parental and filial consortium @ 40,000 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 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 as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

February 20, 2019.
Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No