

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

FAO No. 148 of 2016 (O&M)

Date of decision : September 13, 2019

Lali Devi and another

.....Appellants

Versus

Satyabir Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jai Singh Yadav, Advocate
for the appellants.

Mr. Sanjeev Kodan, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal') on account of death of Anil Kumar vide award dated 16.07.2015.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Anil Kumar on 28.05.2013, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Maruti car bearing registration No. HR-36G/8834, by respondent No.1. The deceased, aged 22 years at the time of the accident was stated to be working in Seaj Metals Pvt. Ltd. Bhiwadi and earning a sum of ₹8500/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Anil Kumar died in the accident which took place on 28.05.2013 due to rash and negligent driving of the offending

Maruti car bearing registration No. HR-36G/8834 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹5,200/- per month awarded a sum of ₹4,40,600/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50% deduction was effected. Multiplier of 13 was applied on the basis of the age of the mother of the deceased. Additionally, a sum of ₹10,000/- was awarded on account of loss of estate besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased, assessed as ₹5,200/- per month, by the learned Tribunal, however, in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects should be afforded. It is further submitted that multiplier of 13 has been wrongly applied as it should be with reference to the age of the deceased and not his parents and compensation under the conventional heads is also meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 16.07.2015 be upheld.

I have heard learned counsel for the appellants as well as insurance company and have gone through the available file.

There is no dispute that Anil Kumar lost his life due to injuries received by him in a motor vehicle accident, which took place on 28.05.2013 due to the rash and negligent driving of Maruti car bearing registration No. HR-36G/8834, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 22 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹5,200/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹5200/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹2080/-) is afforded, as the deceased was 22 years old at the time of accident, which takes income of the deceased to ₹7280/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, 50% deduction is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹3640/- (7280-3640). It has been held by the Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** that multiplier applied should be with reference to the age of the deceased and not of the parents. The deceased, in this case, was admittedly 22 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 13 is to be applied. Applying a multiplier of 18, dependancy of the claimants is assessed as ₹7,86,240/- (₹3640x12x18). The claimants are also entitled to

₹15,000/- each for funeral expenses (instead of ₹25,000) and loss of estate (instead of ₹10,000). In terms of the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 titled Shri Ram General Insurance Company Limited versus Beant Kaur and others, the appellants i.e. parents of the deceased are entitled to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹8,56,240/- detailed as under:-

Loss of dependency (₹3640x12x18)	₹7,86,240/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹8,56,240/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

September 13, 2019
rts

(Lisa Gill)
Judge

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