

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

FAO No.4746 of 2013 (O&M)
Date of Decision: 11.9.2019

Kulwinder Kaur and others

.....Appellants

Versus

Ranjit Singh @ Rana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Ranjit Singh, Advocate, for the appellants.

Mr. Harjot Singh Bedi, Advocate, for respondents No.1 and 2.

Mr. Ajay Singla, Advocate, for respondent No.3.

NIRMALJIT KAUR, J. (ORAL)

While praying for enhancement, learned counsel for the appellants submitted that the income assessed @ ₹ 3,600/- per month, is on the lower side because at that point of time minimum wages was ₹ 4,200/- per month. It is further stated that the claimants are also entitled to 40% future prospects, which the claimants have been deprived of. Further the claimants are entitled to the enhancement qua the consortium in view of the judgment rendered in the case of National Insurance Company Limited vs. Pranay Sethi and others, 2018 (3) SCJ 218 and Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333, whereas, only ₹ 12,000/- was granted.

Learned counsel for the respondent-Insurance Company while opposing the enhancement submitted that if at all, the minimum wages at that point of time were ₹ 3,842/- per month but does not dispute that the appellants are entitled to 40% future prospects. With respect to future

prospects ₹ 70,000/- as per Pranay Sethi's case (supra) under the head of consortium only and not ₹ 40,000/- each as claimed by the appellant-claimants. Learned counsel for the Insurance Company submitted that Pranay Sethi's case (supra) should be taken into consideration for grant of enhancement under the head of consortium and not the case of Magma General Insurance Co. Ltd. (supra) as the judgment rendered in the Pranay Sethi's case (supra) is 3-Judge Bench judgment, whereas, Magma General Insurance Co. Ltd. (supra) is by a 2-Judge Bench.

Thus, the dispute appears to be only qua the income and with respect to the grant of consortium.

Since, both the sides have placed reliance on the different notifications for the purpose of showing the minimum wages at that point of time, this Court is not inclined to interfere in the same having already been determined by the Tribunal i.e. ₹ 3,600/- per month.

As per the case of Pranay Sethi (supra), maximum amount that can be granted in the said case is ₹ 70,000/-. However, as per the judgment rendered in the case of Magma General Insurance Co. Ltd. (supra), ₹ 40,000/- has been granted to each of the claimants. There is no dispute about the said different amount granted under the judgments passed by the Hon'ble Apex Court. However, a perusal of the case of Pranay Sethi (supra), there is no clarity about the date of the accident, whereas, in the judgment rendered in the case of Magma General Insurance Co. Ltd. (supra), the accident pertains to the year 2013. In the present case, the accident was of the year 2011. Although, even in the judgment rendered in the case of Pranay Sethi (supra) the total amount is taken as ₹ 70,000/- under this head

and the same has to be enhanced @ 10% in every three years. Thus, this Court quite safely takes the amount as awarded in the case of Magma General Insurance Co. Ltd. (supra) in view of the value of money taking downward trend with passage of time. Much change has not come between the years 2011 to 2013.

However, the claimants are definitely entitled to 40% future prospects as well as taking into account the judgment in the case of Magma General Insurance Co. Ltd. (supra) ₹ 40,000/- as discussed above to each of the dependent-claimants, that are widow wife, mother and minor children.

It is also not disputed that the deducted should have been 1/4th instead of 1/3rd.

In view of the above, the compensation is now re-assessed as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹3600/- per month (3600 x 12 = 43200 per annum)
2	Future Prospects Dependancy	40% (3600+1440 = 5040/-) 5040 x 3/4 = 3780/- 3780 x 12 x 15 = ₹ 6,80,400/-
3	Consortium as per judgment of <u>Magma</u> (supra) 40,000/- to each of the claimants	₹ 1,60,000/-
5	Total	₹ 8,40,400/-
9	Compensation awarded by the Tribunal	₹ 4,44,000/-
10	Differences	₹ 8,40,400/- - ₹ 4,44,000/- = ₹ 3,96,400/-

Thus, the enhanced compensation of ₹ 3,96,400/- be paid to the appellants within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition. In

case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

11.9.2019

sharmila

Whether Speaking/Reasoned	:	Yes
Whether Reportable	:	No