

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

F.A.O. No.2540 of 2015

Date of Decision: 16.01.2019

Sukhwinder Kaur

.....Appellant.

Versus

Sukhdev Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Swaran Tiwana, Advocate
for the appellants.

Mr.S.S.Sidhu, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

Appellant-claimant, seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short 'tribunal'), vide impugned award dated 02.01.2015, on account of death of Parminder Singh.

As per the averments in the claim petition under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Parminder Singh (deceased) was coming from village Sanghol towards Khamano on a motorcycle bearing registration no. PB-23-J-6413 on 09.11.2011. Maruti car bearing registration no. CH01-Z-3250 was going ahead of Parminder Singh. When, Parminder Singh reached near Boparai Dhaba near Petrol Pump at 4.15.p.m., a canter bearing registration no. PB-10-CU-5694 coming from the side of Ludhiana, driven by respondent no.1-Sukhdev Singh in a rash and negligent manner struck against the abovesaid car against its left side and then dragged the motorcycle of Parminder Singh towards petrol Pump. Mandeep Singh, Daljit Kaur, Sahijleen Kaur and Kashmir Kaur sitting in the car, received serious injuries. Parminder Singh also sustained serious injuries. The injured

were taken to Civil Hospital, Khamano, but on the way to hospital, Mandeep Singh and Kashmir Kaur succumbed to their injuries while Parminder Singh and other injured were admitted in the civil hospital Khamano. Due to serious injuries, Parminder Singh was referred to PGI Chandigarh, but on the way to PGI, Chandigarh, he also succumbed to his injuries. FIR No.110 dated 09.11.2011, under Sections 279, 337, 304-A, 427 IPC was registered at Police Station Khamano, against respondent no.1-Sukhdev Singh, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Sukhdev Singh. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹9000/- per month. Multiplier of 18 was applied by the learned tribunal. A sum of ₹1,00,000/- was awarded on account of loss of love and affection besides a sum of ₹40,000/- was awarded on account of funeral and last ceremony. Deduction of 50% was applied. Learned tribunal awarded a sum of ₹11,12,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realisation of the amount to the claimant.

Sole argument raised by learned counsel for the appellant is that increment on account of future prospects has not been afforded, though it is fairly stated that the claimants have no objection in case compensation under the conventional heads is reworked in terms of **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009** and **Magma General Insurance Company Limited Vs. Nanu Ram @**

Chuhuru Ram and others, Civil Appeal no. 9581 of 2018, arising out of SLP (Civil) No. 3192 of 2018, decided on 18.09.2018.

Learned counsel for respondent no.3-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have perused the file and heard learned counsel for the parties.

There is no dispute regarding the death of Parminder Singh in a motor vehicle accident which took place on 09.11.2011 due to rash and negligent driving of canter by its driver-respondent no.1-Sukhdev Singh. Parminder Singh was unmarried and 19 years old at the time of the accident. Income of the deceased as assessed by the learned tribunal to be ₹9000/- per month is not in dispute. Future prospects at the rate of 40% are required to be afforded in view of the judgement of the Hon'ble Supreme Court in **Pranay Sethi 's case (Supra)**. Deduction of 50% applied by the learned tribunal is maintained. Multiplier of 18 has also been correctly applied by the learned tribunal. However, the claimant are entitled to ₹15,000/- each for funeral expenses and loss of estate instead of ₹40,000/- awarded on account of funeral expenses.

Furthermore, the claimant-appellants in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, Civil Appeal no. 9581 of 2018, arising out of SLP (Civil) No. 3192 of 2018, decided on 18.09.2018.**, are entitled to ₹40,000/- each for loss of filial consortium.

Compensation towards the claimant on account of death of

Parminder Singh, is thus re-worked as under:-

1.	Total income of deceased	₹9000/- p.m
2.	Deduction of 50% on account of personal expenses	₹9000/- (₹9000*50%=₹4500/-) = ₹4500/-
3.	Total income after addition of future prospects at the rate of 40%	₹4500/- (₹4500/-+ ₹1800/-) i.e. ₹6300/-
4.	Annual dependency after applying multiplier of 18	₹6300/- x 12 x 18= ₹13,60,800/-
5.	Filial consortium @ ₹40,000/- each	₹80,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of estate	₹15,000/-
	Total Compensation =	₹14,70,800/-

Claimant shall be entitled to interest on the compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimant shall stand deducted. 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.

16.01.2019

s.khan

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

[LISA GILL]
Judge