

FAO No. 2882 of 2015 (O&M)

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

FAO No. 2882 of 2015(O&M)

Date of Decision: December 16, 2019

Smt. Mukhtiari Devi and others

..... Appellants(s)

Versus

Rajesh Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Priya Deep, Advocate for
Mr. Ashwani Arora, Advocate
for the appellants.

None for respondent no.3-insurance company.

LISA GILL, J.

None has been appearing on behalf of the respondent-insurance company on the last various occasions. I do not find any justification for deferring the hearing of this appeal of the year 2015, any further.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 04.09.2014, passed by learned Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred to as 'the Tribunal').

The appellants-claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Rulda Ram, due to the injuries suffered by him in the motor vehicle accident, which took place on 22.05.2013. Deceased was claimed to be 75

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year old, retired from Haryana State Electricity Board besides an agriculturist and Numbardar, thereby earning of Rs.11,000/- per month as pension, Rs.10,000/- per month as agricultural income and Rs.1,000/- per month as pay from Numbardari.

Learned Tribunal on considering the evidence on record concluded that Rulda Ram lost his life due to the injuries received by him in the accident in question, which took place on 22.05.2013, due to the rash and negligent driving of the offending car bearing registration No. HP-10-A-3373, by its driver Rajesh Kumar - respondent no.1. Learned Tribunal assessed the income of the deceased as Rs.10,691/- per month i.e. Rs.9,691/- as pension and Rs.1,000/- as honorarium that the deceased was getting being Numberdar of village Jarot. Learned Tribunal awarded a sum of Rs.4,70,800/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	1,28,292/- per annum
2.	Income after deducting 1/2 as personal living expenses of the deceased	64,146/-
3.	Dependency after applying multiplier of 5	64,146 x 5 = 3,20,730/-
4.	Loss of consortium	1,00,000/-
5.	Loss of estate	25,000
6.	Funeral expenses	25,000/-
	Total	Rs.470,730/-, which was rounded off to 4,70,800/-

The sole ground raised by learned counsel for the appellants is that deduction of 50% has been incorrectly applied by the learned Tribunal

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whereas it should have been a deduction of 1/3rd. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **National Insurance Company Limited v. Pranay Sethi and ors., 2017(16) SCC 680** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2017(4) RCR Civil 333**. It is thus prayed that total compensation be enhanced.

I have heard learned counsel for the appellants and have gone through the file with her assistance.

There is no dispute regarding death of Rulda Ram, aged 75 years, in the motor vehicle accident, which took place on 22.05.2013, due to the rash and negligent driving of the offending car bearing registration No. HP-10-A-3373, by its driver Rajesh Kumar - respondent no.1. The deceased was admittedly a retired employee of Haryana State Electricity Board, in receipt of a pension of Rs.9,691/- per month. He was also in receipt of honorarium of Rs.1,000/- per month being Nambardar of village Jarot. Income of the deceased has been correctly assessed by the learned Tribunal and there is also no dispute regarding the income of the deceased as assessed by the learned Tribunal, therefore, same is upheld.

Learned Tribunal has effected a deduction of 50%. The claimants in this case are the widow and six major sons of the deceased. All of them are claimed to be living together. There is no evidence on record to indicate otherwise. Therefore, deduction of 1/3rd instead of 1/2 is to be

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applied in this case. A multiplier of 5 was correctly applied by learned Tribunal. However, instead of Rs.25,000/- each awarded by the learned Tribunal towards funeral expenses and loss of estate, claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate. Appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of consortium instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on this count. Appellants no.2 to 7 are entitled to a consolidated sum of Rs.40,000/- on account of loss of parental consortium. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2017(4) RCR Civil 333, as well as decision dated 14.03.2019 of this Court in FAO-2110-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income	10,691 x 12 = 1,28,292/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	1,28,292 - 42,764/- (1,28,292 x 1/3) = 85,528/-
3.	Dependency after applying multiplier of 5	85,528 x 5 = 4,27,640/-
4.	Loss of estate	15,000/-
5.	Funeral expenses	15,000/-
6.	Loss of spousal consortium to appellant no.1	40,000/-
7.	Loss of parental consortium to appellants no.2 to 7	40,000/-
	Total	5,37,640/-

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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 at the rate of 7.5% per annum on the entire amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

**(LISA GILL)
JUDGE**

December 16, 2019.

Sunil

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