

FAO No. 1899 of 2016 (O&M)

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

FAO No. 1899 of 2016 (O&M)

Date of Decision: March 15, 2019

Satyanarain and another

..... Appellants(s)

Versus

Surinder Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Parvesh Jaglan, Advocate
for the appellants.

Mr. Sunil Kumar Dhanda, Advocate for
Mr. Vineet Dhanda, Advocate
for respondent no.1.

Mr. Sachin Ohri, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

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, Jind (hereinafter referred to as 'the Tribunal).

Claimants-appellants are the parents of Sachin (deceased) who died in a motor vehicle accident, which took place on 05.06.2013, due to the rash and negligent driving of the offending truck Ashoka Leyland bearing registration No. HR-64-7155, by its driver Surinder Singh-respondent no.1.

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Learned Tribunal while observing that Sachin (deceased) was a student of 11th standard and unmarried, would be able to secure a job of at least a semi-skilled person, assessed his income at Rs.6,000/- per month. Deceased was about 16 years old at the time of the accident. After effecting a deduction of 50%, multiplier of 15 was applied. Learned Tribunal awarded a total sum of Rs.5,75,000/- as compensation, after including a sum of Rs.5,000/- towards loss of estate and Rs.25,000/- towards last rites.

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants submits that the deceased apart from carrying on with his studies was also engaged in agricultural and dairy farming on a part time basis. Future prospects should be awarded and compensation under the conventional heads should also be enhanced. It is, thus, prayed that compensation may be enhanced.

Learned counsel for respondent no.3-insurance company, however, submits that as there is no evidence of deceased being employed or being engaged in any kind of work generating income, therefore, increment on account of future prospects should not be afforded. It is submitted that the impugned award dated 04.09.2014 does not call for 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.

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There is no dispute regarding death of Sachin in the motor vehicle accident, which took place on 05.06.2013, due to the rash and negligent driving of the offending truck bearing registration No. HR-64-7155 by its driver Surinder Singh-respondent no.1. Finding of the learned Tribunal on this issue has attained finality. Admittedly, the deceased was aged about 16 years at the time of the accident and a student of 11th standard. Certificate of secondary examination of Sachin (deceased) is on record as Ex.P-2. Learned Tribunal has thus rightly assessed his income as Rs.6,000/- per month. It is to be noticed that minimum wages of a skilled labourer at the time of the accident in the State of Haryana as on 01.07.2013 was Rs.5,991/- per month. Therefore, income of the deceased is upheld to be Rs.6,000/- per month.

I do not find any merit in the argument raised by learned counsel for the insurance company that increment on account of future prospects should not be afforded in this case. Admittedly, the deceased was a student of Class 11. It is further averred that he was engaged in agricultural and dairy farming though there is no specific documentary evidence in this respect. Needless to say, after securing his education, the deceased would necessarily have been able to earn the minimum wages as afforded to a skilled labourer in the State at that point of time. In the facts and circumstances of the case, the increment on account of future prospects @ 40% is awarded. Deduction of 50% was correctly effected by learned Tribunal. Multiplier of 15 has been wrongly applied by the learned Tribunal. It has been held by the Hon'ble Supreme Court in **Munna Lal Jain Vs.**

Vipin Kumar Sharma, (2015) 6 SCC 347, that multiplier has to be applied with reference to the age of the deceased and not the parents. Therefore, multiplier of 18 has to be applied. Claimants are entitled to a sum of Rs.15,000/- each on account of loss of estate and funeral expenses instead of Rs.5,000/- and Rs.25,000/- respectively as awarded by the learned Tribunal. In terms of the judgment of Hon'ble Supreme Court in *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018(4) RCR Civil 333, the claimants are entitled to Rs.40,000/- on account of loss of filial consortium.

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

Sr.No.	Heads of Claim	Amount
1.	Income # 6,000 – 1/2 = 3,000/-	36,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	36,000+14,400 (36,000 x 40%) = 50,400/-
3.	Total dependency after applying a multiplier of 18	50400 x 18 = 9,07,200/-
4.	Funeral expenses	15,000/-
5.	Loss of estate	15,000/-
6.	Loss of filial consortium	40,000/-
	Grand Total	Rs.9,77,200/-

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.

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It is clarified that claimants-appellants are not entitled to any interest for the period of delay (406 days) in filing of this appeal as delay was condoned with a stipulation that the appellants shall not be entitled to interest for the period of delay, in case of any enhancement of the compensation awarded to them.

Appeal is accordingly disposed of.

March 15, 2019.

Sunil

**(LISA GILL)
JUDGE**

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