

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

**F.A.O. No.300 of 2015
Date of Decision: 11.02.2019**

Sushma Rani and another

.....Appellants.

Versus

Sukhchain Singh and other

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ishaan Cooner, Advocate
 for Mr. J.S.Cooner, Advocate
 for the appellants.

Ms. Madhu Sharma, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Moga (for short 'tribunal'), vide impugned award dated 15.07.2014, on account of death of Gaurav Devgan.

As per the averments in the claim petition under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Gaurav Devgan along with Deepak Kumar son of Desh Raj, on 22.02.2013 was coming back from Moga to Zira in Indica Car bearing registration no. DL-3C-AC-4611 and the same was driven by Gaurav Devgan at a moderate speed. When they reached near village Lohara, a mini bus bearing registration no. PB-08-AF-7855 being driven by respondent no.1 in a rash and negligent manner came from the opposite side. On seeing this, Gaurav Devgan took his car on extreme

left side of the road, but the driver of the mini bus brought the bus to the extreme wrong side of the road and struck against the Indica car. As a result thereof, Indica car was badly damaged. Due to the impact of the accident, Deepak Kumar was thrown out of the car and Gaurav Devgan was entangled in the cabin of the car. As a result thereof, Gaurav Devgan died on the spot. Postmortem was conducted at Civil Hospital, Moga. FIR No.20 dated 23.02.2013, under Sections 304-A, 279, 337, 338, 427 IPC was registered at Police Station Kot Ise Khan, against respondent no.1-Sukhchain 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-Sukhchain Singh. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹6000/- per month. Multiplier of 18 was applied by the learned tribunal. A sum of ₹10,000/- was awarded on account of funeral expenses besides a sum of ₹1,00,000/- was awarded on account of love and affection. Deduction of 50% was applied. Learned tribunal awarded a sum of ₹7,58,000/- along with interest @ 6% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

Sole argument raised by learned counsel for the appellants 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, 2018(4) R.C.R (Civil), 333.** It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

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 Gaurav Devgan in a motor vehicle accident which took place on 22.02.2013 due to rash and negligent driving of mini bus by its driver-respondent no.1-Sukhchain Singh. Gaurav Devgan was unmarried and 20 years old at the time of the accident. Income of the deceased as assessed by the learned tribunal to be ₹6000/- per month is not in dispute. Future prospects at the rate of 40% are 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 claimants' are entitled to ₹15,000/- each for funeral expenses and loss of estate, instead of ₹10,000/- awarded towards funeral expenses.

Furthermore, the claimant-appellants in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited (Supra)**, are entitled to ₹40,000/- each for loss of filial consortium instead of ₹1 lakh awarded on account of loss of love and affection.