

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

FAO No.2056 of 2016 (O&M)

Date of decision : 12.03.2019

Ved Parkash Jain and another

...Appellants

Versus

Janna Khan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sushil Jain, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Claimants-parents are in the appeal seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal. Their young son aged about 26 years namely Gaurav Jain had died in the motor vehicular accident on 19.08.2014. It was claimed that he was working as Private Accountant with M/s Ragubhir Singh Jain & Sons, drawing salary of ₹12,000/- per month. The Motor Accident Claims Tribunal assessed the income to be ₹10,000/- per month and being bachelor, the Court imposed a cut of 50% of the income towards personal expenses.

Although, learned counsel for the appellants has tried to persuade this Court to take a different view, however, keeping in view the reasons recorded by the learned Motor Accident Claims Tribunal, dependency at the rate of ₹5,000/- per month is maintained.

Learned counsel for the appellant has submitted that increase in the income on account of future prospects has not been added which should be 40% as per the judgment passed by the Hon'ble Supreme Court in

case **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017**

(10) SC 450. He further submitted that the Court applied multiplier of 9 even after finding that 13 would be applicable. He submitted that looking at the age of the deceased i.e. 26 years, appropriate multiplier is 17. He has further submitted that on account of conventional heads i.e. funeral expenses, loss of consortium and loss of estate, appropriate amount has not been awarded.

Learned counsel for the respondents has submitted that the appellants are parents and as per the judgment passed by the Constitution Bench, only widow is entitled to loss of consortium and not the parents. He has further submitted that the income assessed by the Court at the rate of ₹10,000/- per month is excessive.

This Court has considered the submissions.

As regards multiplier, the Motor Accident Claims Tribunal even in the discussion, has held that multiplier of 13 is applicable keeping in view the age of the parents. However, while calculating, multiplier of 9 has been applied. Keeping in view the age of the deceased, appropriate multiplier would be 17. On account of conventional heads i.e. funeral expenses, amount of ₹15,000/- is to be awarded whereas with regard to loss of estate, another ₹15,000/- is payable. As regards loss of consortium, Hon'ble the Supreme Court in the case of **Magma General Insurance Company Ltd Vs. Nanu Ram alias Chuhru Ram and others, Civil Appeal No.9581 of 2018, SLP (Civil) No.3192 of 2018**, has introduced the concept of filial consortium payable to the parents 40% each.

Accordingly, the compensation payable is recalculated as under:-

Heads	Compensation awarded by High Court	Compensation awarded by the Tribunal
Income assessed	₹10,000/-	₹10,000/-
+ future prospects (40%)	₹4,000/-	NIL
	₹14,000/-	
Deduction (50%)	₹7,000/-	₹5,000/-
	₹7,000/-	₹5,000/-
Annual Dependency	₹7,000/- x 12 = ₹84,000/-	₹5,000/- x 12 = ₹60,000/-
Multiplier (17)	₹84,000/- x 17 = ₹14,28,000/-	₹60,000/- x 9 = ₹5,40,000/-
<u>Conventional Heads</u>		
Loss of Estate	₹15,000/-	
Consortium	NIL	
Funeral Expenses	₹15,000/-	₹10,000/-
Filial Consortium	₹80,000/- (₹40,000/- each)	
Loss of Love and affection and consortium		₹25,000/-
Total Compensation	₹15,38,000/-	₹5,75,000/-
Enhanced Compensation = Compensation awarded by High Court (-) Compensation awarded by MACT	₹9,63,000/- {₹15,38,000/- (-) ₹5,75,000/-}	

The enhanced compensation i.e. ₹9,63,000/- shall be payable alongwith interest at the rate of 7.5% p.a. from the date of claim petition till payment.

In view of what has been observed above, the present appeal stands disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

12.03.2019
Pawan

(ANIL KSHETARPAL)
JUDGE

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