

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

**FAO No.3220 of 2015 (O&M)
Date of Order:25.03.2019**

Suman and others

..Appellants

Versus

Ombir and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sagar Aggarwal, Advocate, for
Mr. Ashit Malik, Advocate,
for the appellants.

Mr. Vinod K. Kanwal, Advocate
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

Claimants are in appeal seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') on account of death of Late Sh. Sunil, aged about 30 years in a motor vehicular accident dated 24.02.2013.

Learned counsel appearing for the appellants has submitted that late Sh. Sunil was working as a constable with Border Security Force drawing a salary of Rs.25,875/- per month. He submitted that the learned Tribunal has not granted any amount on account of increase in the income in future. He further submitted that the learned Tribunal has also applied wrong multiplier i.e. 16, although, keeping in view the age of the deceased, which was barely 30 years, the multiplier should be 17. He further

submitted that on account of loss of consortium, the learned Tribunal has awarded only Rs.20,000/- which should be Rs.40,000/-. He further submitted that the learned Tribunal has not awarded any amount on account of filial consortium i.e., for the parents. He further submitted that on account of loss of estate, no amount has been awarded although for love and affection, Rs.20,000/- has been awarded. He has further submitted that the learned Tribunal has erred while recording a finding that the father, who was 66 years old was not dependent.

As regards income, the deceased was a government employee and, therefore, there is no dispute. As regards addition of the income on account of increase of income in future, the law in this aspect has been explained by a Constitution Bench of the Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi and others, JT 2017(10) SC 450**. Thus, the income of the deceased was required to be increased by 50%.

As regards argument of learned counsel for the appellants with regard to loss of consortium to the wife, the amount required to be awarded is Rs.40,000/-. In a subsequent judgment, the Hon'ble Supreme Court while deciding Civil Appeal No.9581 of 2018 (**Magma General Insurance Co. Ltd. V Nanu Ram alias Chuhru Ram and others**) has held that parents are also entitled to filial consortium @ Rs.40,000/- each. However, since, in the present case, out of parents, only mother has been found dependent, therefore, another amount of Rs.40,000/- are being granted to the mother.

On account of love and affection and loss of estate, Rs.15,000/- is to be awarded as per **National Insurance Company Limited vs. Pranay Sethi and others(supra)**. Multiplier is also increased to 17 keeping in view

the fact that Late Sh. Sunil had barely completed 30 years of age.

Learned counsel for the appellants has submitted that the learned Tribunal has erred in excluding the name of the father while awarding compensation. He submitted that father was retired and therefore, the learned Tribunal erred in excluding his name from the list of dependents.

Learned counsel for the appellants has admitted that father, no doubt, had retired but was getting pension. Still further the father has not filed any appeal. He has been impleaded as proforma respondent. Accordingly, the claim with regard to father is rejected. However, the compensation is re-worked as under:-

<i>Heads</i>	<i>Compensation awarded by MACT</i>	<i>Compensation awarded by High Court</i>
Monthly Income assessed	24900-00 (after income tax deduction)	24900-00
Add Future Prospects 50%	12,450-00	8300-00 (1/3 rd)
Total Income per month	37,350-00	
-Deduction	(-)12,450-00	
	24,900-00	16,600-00
Annual dependency	24900-12=2,98,800-00	16,600x12=1,99,200
Multiplier	2,98,800x17=50,79,600-00	1,99,200x16=31,87,200-00
Conventional Heads		
-Loss of estate	15,000-00	Nil
-consortium	40,000-00	20,000-00
-Funeral Expenses	15,000-00	25,000-00
-Filial Consortium	40,000-00 (to mother)	NIL
-Loss of love & affection	NIL	20,000 (10,000/- each)
Total Compensation	51,49,600-00	32,52,200-00 (rounded of to 32,52,00-00)
Already awarded by Motor Accident Claims Tribunal	32,52,000-00	

Compensation Awarded by the High Court : Rs. 51,49,600-00

(-)Compensation Awarded by the MACT : Rs. 32,52,000-00

Enhanced Compensation : Rs. 18,97,600-00

In view of the above, the appeal is allowed.

The enhanced amount i.e. Rs.18,97,600/- shall carry interest @
7.5% from the date of filing of the claim petition till its realization.

March 25, 2019
nt

(ANIL KSHETARPAL)
JUDGE

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