

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

FAO No. 3524 of 2015 (O&M)

Date of decision : September 06, 2019

Paramjit Kaur and others

.....Appellants

Versus

Manjit Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. N.S. Swaitch, Advocate
for the appellants.

Ms. Madhu Sharma, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as the 'Tribunal') on account of death of Shamsher Singh @ Davinder Singh @ Binder vide award dated 11.04.2014.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow, children and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Shamsher Singh @ Davinder Singh @ Binder on 18.09.2012, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Indigo car bearing registration No. PB-49-A-3902, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Shamsher Singh @ Davinder Singh @

Binder died in the accident which took place on 18.09.2012 due to rash and

negligent driving of the offending Indigo car bearing registration No. PB-49-A-3902 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹5000/- per month awarded a sum of ₹8,45,000/- with interest at the rate of 7% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 16 was applied as the deceased was 35 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal seeking enhancement thereof.

Learned counsel for the appellants submits that income of the deceased, assessed as ₹5,000/- per month by the learned Tribunal is on the lower side. It is further submitted that increment on account of future prospects in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, should be afforded. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal, which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 11.04.2014 be upheld.

I have heard learned counsel for the appellants as well as insurance company and have gone through the available file.

There is no dispute that Shamsher Singh @ Davinder Singh @

Binder lost his life in a motor vehicle accident, which took place on 18.09.2012 caused due to the rash and negligent driving of Indigo car bearing registration No. PB-49-A-3902, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 35 years old at the time of the accident.

Learned Tribunal has assessed income of the deceased to be ₹5000/- per month, which is even lesser than the minimum wage of an unskilled labourer in the State of Punjab at the time of the accident. The claimants have pleaded the deceased to be a car mechanic by profession and running a workshop in rented accommodation and earning ₹45,000/- per month. However, it is rightly held by the learned Tribunal that the claimants failed to lead any evidence to substantiate their plea regarding the exact income of the deceased. CW4 Ranjit singh has deposed that the deceased was earlier working as a car mechanic in a shop owned by CW4 and rented out to the deceased at the rate of ₹720/- per month. Indeed there is no evidence on record to prove the exact income of the deceased. Income of the deceased thus, has to be assessed with reference to the minimum wages available to a skilled labourer in the State of Punjab at the relevant time, which was ₹5980/- per month. Income of the deceased is, accordingly, assessed as ₹6,000/- per month instead of ₹5000/- per month as assessed by the learned Tribunal. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹2400/-) is afforded, as the deceased was 35 years old at the time of accident, which takes income of the deceased to ₹8400/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi**

Transport Corporation and another 2009 (3) RCR (Civil) 77, deduction of $1/4^{\text{th}}$ is to be applied as number of dependants is five (5), thereby rendering income of the deceased to be ₹6300/-(8400-2100). Applying a multiplier of 16, dependency of the claimants is assessed as ₹12,09,600/- (₹6300x12x16). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/-) and loss of estate besides the claimant widow is entitled to ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other** 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others**, appellants No. 2, 3 and 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellant No. 5 i.e. mother of the deceased to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹13,59,600/- detailed as under:-

Loss of dependency(₹6300x12x16)	₹12,09,600/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹13,59,600/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the entire amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

September 06, 2019
rts

(Lisa Gill)
Judge

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