

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 2597 of 2016(O&M)

Date of Decision: December 09 , 2019.

Geeta Rani and another

..... APPELLANT (s)

Versus

Narinder Singh @ Ninda and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jagram Singh Cooner, Advocate
for the appellants.

Mr. B.S.Taunque, Advocate
for respondent No.3 – Insurance company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Amritsar (for short, the 'Tribunal') vide impugned award dated 21.05.2015 on account of death of Amritpal in a motor vehicle accident. Claimants are the parents of the deceased.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of their son Amritpal, who lost his life in a

motor vehicle accident which took place on 16.09.2013. FIR No.252 dated 17.09.2013 under Sections 304A/279/337/338/427 IPC, Police Station City Tarn Taran was registered against respondent No.1-driver in respect to the incident. Deceased-Amritpal, aged 19 years, was claimed to be engaged in business alongwith his father, running an establishment in the name and style of M/s Rohit Factory, earning a sum of ₹8,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Amritpal died on account of the injuries received by him in the motor vehicle accident in question, which took place due to the rash and negligent driving of bus bearing registration No.PB-03-AC-5417, by respondent No.1-Narinder Singh @ Ninda. Learned Tribunal while accepting the factum of the deceased-Amritpal assisting his father in running the business of spare parts under the name and style of M/s Rohit Factory, assessed his income as ₹4,500/- per month and awarded a total compensation of ₹5,03,500/- to the claimants. Deduction to the extent of 50% was effected. Multiplier of 18 was applied. ₹10,000/- was awarded on account of funeral expenses. ₹2,500/- was afforded towards loss of estate, besides, ₹5,000/- towards loss of consortium.

Learned counsel for the appellants argues that income of the deceased has been incorrectly assessed. It is argued that even the minimum wage available to an unskilled labourer in the State of Punjab at the time of the accident was much more. It is submitted that meagre compensation has been awarded. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3 refutes the abovesaid

averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement, though it is not denied that increment towards future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** has indeed not been afforded.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding death of Amritpal in a motor vehicle accident which took place on 16.09.2013 due to the rash and negligent driving of the offending vehicle bearing registration No.PB-03-AC-5417 by respondent No.1-Narinder Singh @Ninda. Finding of the learned Tribunal in this regard has attained finality.

It is a matter of record that the learned Tribunal has accepted the deceased-Amritpal, aged 19 years, to be assisting/running the business of spare parts under the name and style of M/s Rohit Factory alongwith his father. Learned counsel for the appellant is unable to deny that there is no documentary proof or any other evidence to indicate the exact income being earned by the deceased, much less to prove the deceased to be earning a sum of ₹8,000/- per month. At the same time, it cannot be denied that even though minimum wage of an unskilled labourer in the State of Punjab at the relevant time was ₹6,247/- per month, the learned Tribunal has taken his income to be only ₹4,500/- p.m. In the view of this matter, it is considered just and expedient to assess income of the deceased to be ₹6,500/- per month.

As the deceased was admittedly 19 years old at the time of the

accident, the claimants are entitled to increment at the rate of 40% on account of future prospects in terms of the judgment of the Hon'ble Supreme in **Pranay Sethi** (supra). Deduction to the extent of 50% has been correctly effected. Multiplier of 18 has been rightly applied as well. Instead of ₹2,500/- and ₹5,000/- on account of funeral expenses and loss of estate, respectively, the claimants are entitled to ₹15,000/- each on the said counts. Instead of ₹5,000/-, the claimants are held entitled to ₹40,000/- towards loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	6,500 p.m. i.e., 78,000 p.a.
2.	Total income after addition at the rate of 40% on account of future prospects	78,000 + (78,000 x 40%) = 1,09,200
3.	Deduction of 50% on account of personal expenses	1,09,200 – (1,09,200 x 1/2) = 54,600
4.	Total dependancy after applying a multiplier of 18	(54,600 x 18) = 9,82,800
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
Grand Total		₹10,52,800/-

Needless to say, the amount already awarded by the learned Tribunal

shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the entire amount at the rate of 7.5% per annum, instead of 6%, from the date of filing of the petition till realization. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

December 09 , 2019.
'om'

(LISA GILL)
JUDGE

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