

FAO No. 4281 of 2015

-1-

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

FAO No. 4281 of 2015

Date of Decision: April 01, 2019

Suman Rani and others

..... Appellants(s)

Versus

Ved Parkash and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Karan Singh, Advocate
for the appellants.

Mr. J.S. Virk, Advocate
for respondent nos.1 and 2.

Mr. Sanjeev Kodan, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 23.09.2014, passed by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal) on account of death of Kamal Gauri @ Kamal Nain in a motor vehicles accident.

Claimants-appellants who are the widow and minor children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Kamal Gauri @ Kamal Nain in motor vehicle accident, which took place on 15.03.2012, due to the

FAO No. 4281 of 2015

-2-

rash and negligent driving of the offending tractor-trolley bearing registration No. HR-01-W-5488, by its driver Ved Parkash-respondent no.1. It was pleaded that Kamal Gauri @ Kamal Nain was running a grocery (Kiryana) shop and a liquor shop at village Sadhaura. Compensation was prayed for.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Kamal Gauri @ Kamal Nain lost his life in the accident in question, which took place due to the rash and negligent driving of the offending vehicle, by its driver Ved Parkash-respondent no.1. While not accepting the deceased to be running grocery and liquor shops, his income was assessed by equating the deceased to be a daily wager, earning Rs.210/- per day. Annual income of the deceased was assessed as Rs.76,650/-. Deceased was concluded to be 50 years old at the time of his death. Learned Tribunal awarded a sum of Rs.7,67,331/-, the detail of which is as under:-

<i>Sr. No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	76,650/- per annum
2.	1/4 th i.e. Rs.19,163 deducted as personal expenses of the deceased	76,650 - 19,163 = 57,487/-
3.	Compensation after applying a multiplier of 13	57,487 x 13 = 7,47,331/-
4.	Funeral expenses	5,000/-
5.	Loss of consortium	10,000/-
6.	Loss of estate	5,000/-
	Grand Total	Rs. 7,67,331/- (rounded off as Rs.7,68,000/-)

FAO No. 4281 of 2015

-3-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants does not dispute the income as assessed by the learned Tribunal but submits that increment on account of future prospects should be awarded in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. It is further submitted that meagre compensation under the conventional heads has been awarded. It is, thus, prayed that this appeal be allowed and compensation awarded to the appellants be enhanced.

Learned counsel for the respondents submit that income of the deceased has already been assessed on a higher side and the present is a case for reduction of compensation, though it is not denied that no appeal or cross-objections have been filed by the insurance company. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Kamal Gauri @ Kamal Nain in the motor vehicle accident, which took place on 15.03.2012, due to the rash and negligent driving of the offending vehicle, by its driver Ved Parkash-respondent no.1. Finding of the learned Tribunal in this respect has attained finality. There is further no dispute regarding age of the deceased i.e. about 50 years at the time of the accident. Though learned counsel for

FAO No. 4281 of 2015

-4-

the respondents have urged that income as assessed by learned Tribunal should be reduced, I do not find any merit in this argument. Admittedly, no appeal or cross-objections have been filed by the insurance company. Moreover, the evidence on record does not call for any reduction in the income as assessed by the learned Tribunal. Same is accordingly maintained.

In terms of the judgment of Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others*, 2017(16) SCC 680, 25% increment towards future prospects is afforded. Deduction of 1/4th and multiplier of 13 has been correctly applied by the learned Tribunal. Same is upheld. Instead of Rs.5,000/- each awarded by the learned Tribunal towards loss of estate and funeral expenses, the claimants are entitled to a sum of Rs.15,000/- each. Appellant no.1–widow of the deceased is entitled to Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 to 4 are entitled to a consolidated sum of Rs.40,000/- as loss of parental consortium, in terms of the judgment of Hon'ble Supreme Court in *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018(4) RCR Civil 333 and decision dated 14.03.2019 of this Court in FAO-2110-2016, titled as *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others*.

Appellants-claimants 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	76,650/- per annum
2.	Total income after addition of 25% on account of future prospects	76,650 + (76,650 x 25%) = 95,813/-
3.	1/4 th i.e. Rs.23,953/- deducted as personal expenses of the deceased	95,813 - 23,953 = 71,860/-
4.	Compensation after applying a multiplier of 13	71,860 x 13 = 9,34,180/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of spousal consortium to appellant no.1.	40,000/-
8.	Loss of consortium to appellant nos.2 to 4.	40,000/-
	Grand Total	Rs. 10,44,180/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

April 01, 2019.

Sunil

(LISA GILL)
JUDGE

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