

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

**F.A.O. No.326 of 2016
Date of Decision: 20.02.2019**

Kamlesh and another

.....Appellants.

Versus

Daya Singh Pannu and another

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Swarn Sandhir, Advocate
 for Ms. Monika Jalota, Advocate
 for the appellants.

 Mr. Satish Jain, Advocate
 for respondent no.2-Insurance Company.

LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short 'tribunal'), vide impugned award dated 05.10.2015, on account of death of Bachan Singh.

As per the averments in the claim petition under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Bachan Singh son of Dhoom Singh, on 03.04.2015, was going from his Dhaba, situated at village Rajgarh towards Patiala side on his Scooty bearing registration no. PB-11-AE-3949 at a moderate speed. At about 7.45., a.m., when he reached 100 yards ahead of turning point of village Korjiwala, a car bearing registration no. PB-11-

BE-3264, driven by respondent no.1 in a rash and negligent manner came from the opposite side and struck against the Scooty of Bachan Singh. As a result thereof, Bachan Singh fell down and received multiple grievous injuries. Bachan Singh was taken to Rajindra Hospital, Patiala, where he succumbed to his injuries during treatment. FIR, Ex.P-1, was registered against respondent no.1-Daya Singh Pannu, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Daya Singh Pannu. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹6000/- per month. Multiplier of 11 was applied by the learned tribunal. A sum of ₹1,00,000/- was awarded on account of loss of consortium to appellant no.1 and ₹25,000/- was awarded on account of funeral expenses. Deduction of 1/ 3rd was applied. Learned tribunal awarded a sum of ₹6,53,000/- along with interest @ 6% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed by the learned tribunal. Even, the minimum wages of unskilled labourer in the State of Punjab at the relevant time were much more. Furthermore, increment on account of future prospects should be awarded. It is however stated that the claimants have no objection in case, the compensation under the conventional heads is re-worked in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.**

(Civil) 1009 and Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) R.C.R (Civil), 333. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

Learned counsel for respondent no.2-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have perused the file and heard learned counsel for the parties.

There is no dispute regarding the death of Bachan Singh in a motor vehicle accident which took place on 03.04.2015 due to rash and negligent driving of the offending car by its driver-respondent no.1-Daya Singh Pannu. Finding of the learned tribunal on this issue has attained finality. It is further admitted that the deceased was 52 year old at the time of the accident. The deceased is claimed to have been running a Dhaba at village Rajgarh. However, there is no evidence on record to this effect except the bald statement of appellant no.1. At the same time, it cannot be ignored that even the minimum wage available to an unskilled worker in the State of Punjab at the time of the accident was ₹6847/- p.m. Therefore, learned tribunal has erred in assessing the income of the deceased to be ₹6000/- per month. Income of the deceased is accordingly assessed as ₹7000/- per month.

Future prospects at the rate of 10% are afforded in view of the judgement of the Hon'ble Supreme Court in **Pranay Sethi 's case (Supra)**. Deduction of 1/ 3rd applied by the learned tribunal is maintained. Multiplier

of 11 has also been correctly applied by the learned tribunal. Instead of ₹1,00,000/- awarded on account of loss of consortium, appellant no.1 is entitled to a sum of ₹40,000/-. However, the claimants' are entitled to ₹15,000/- each for funeral expenses and loss of estate. Appellant no.2 is entitled to a sum of ₹40,000/- on account of loss of parental consortium in terms of the judgement of the Honble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others (supra)**.

Compensation towards the claimant on account of death of Bachan Singh, is thus re-worked as under:-

1.	Total income of deceased	₹7000/- p.m
2.	Deduction of 1/ 3 rd on account of personal expenses	₹7000/- (₹7000*1/3=₹2333/-) = ₹4667/-
3.	Total income after addition of future prospects at the rate of 10%	₹4667/- (₹4667/-+ ₹467/-) i.e. ₹5134/-
4.	Annual dependency after applying multiplier of 11	₹5134/- x 12 x 11= ₹6,77,688/-
5.	Loss of consortium to appellant no.1	₹40,000/-
6.	Loss of parental consortium	₹40,000/-
7.	Funeral expenses	₹15,000/-
8.	Loss of estate	₹15,000/-
	Total Compensation =	₹7,87,688/-

Claimants shall be entitled to interest on the entire awarded amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say that the amount, if any, already disbursed to the claimant shall stand deducted. 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.

20.02.2019
s.khan

[LISA GILL]
Judge

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