

FAO No. 4592 of 2015

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

FAO No. 4592 of 2015

Date of Decision: April 22, 2019

Kamlesh Devi and others

..... Appellants(s)

Versus

Ashok Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Abhishek Sanghi, Advocate (Amicus Curiae)
for the appellants.

Mr. D.R. Bansal, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

Mr. D.R. Bansal, Advocate appears on behalf of respondent no.3-insurance company. Memo of appearance filed in Court today is taken on record, subject to just exceptions.

As per office report, notice issued to respondents no.1 & 2 has not been received back served or otherwise. Learned counsel for the appellants and insurance company are *ad idem* that liability of the insurance company is not in dispute, therefore, service upon respondents no.1 & 2 be dispensed with.

Ordered accordingly.

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This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 26.03.2015, passed by learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal') on account of death of Ram Kishan.

The claimants preferred a petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') seeking compensation on account of death of Ram Kishan. The claimants are the widow and children of the deceased Ram Kishan. Learned Tribunal on considering the evidence on record concluded that Ram Kishan died due to injuries received by him in the motor vehicle accident, which took place on 06.10.2014, due to the rash and negligent driving of the offending car bearing registration No. DL-08-CP-8172, by its driver Ashok Kumar-respondent no.1. Learned Tribunal while assessing income of the deceased to be Rs.7,500/- per month, awarded a sum of Rs.11,15,000/- as compensation to the appellants. The same is detailed as under:-

Sr. No.	Heads	Calculations
1.	Gross income	7,500/-
2.	Income after deducting 1/4 th as personal living expenses	7,500 - 1,875 = 5,625/-
3.	Compensation after applying multiplier of 14	5,625 x 12 x 14 = 9,45,000/-
4.	Compensation on account of loss of consortium	50,000/-
5.	Loss of love and affection	1,00,000/-
6.	Funeral expenses	20,000/-
	Total	11,15,000/-

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

Learned counsel for the appellants while not disputing the income of the deceased as assessed by the learned Tribunal, submits that increment on account of future prospects should be afforded. It is fairly stated that compensation under the conventional heads may, however, be re-worked in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333**.

Learned counsel for the insurance company refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

I have heard learned counsel for the parties.

There is no dispute regarding death of Ram Kishan in the motor vehicle accident, which took place on 06.10.2014, due to the rash and negligent driving of the offending car bearing registration No. DL-08-CP-8172, by its driver Ashok Kumar-respondent no.1. There is further no dispute regarding the income of the deceased as assessed by the learned Tribunal as Rs.7,500/- per month. Keeping in view the judgment of the Hon'ble supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, 25% increment has to be

afforded on account of future prospects as the deceased was admittedly 45 years old at the time of accident. Deduction of 1/4th was correctly effected by learned Tribunal, keeping in view the number of dependents. Multiplier of 14 was correctly applied. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.20,000/- awarded by the learned Tribunal on account of funeral expenses of the deceased. Instead of a sum of Rs.50,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to Rs.40,000/-. Children of the deceased are not entitled to a sum of Rs.1,00,000/- for loss of love and affection as awarded by the learned Tribunal, however, they are entitled to a sum of Rs.40,000/- towards 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, as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others.

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

Sr. No.	Heads	Calculations
1.	Gross income 7,500 x 12	90,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses	90,000 - 22,500 = 67,500/-
3.	Total income after addition at the rate of 25% on account of future prospects	67,500+16,875 (45,000 x 25%) = 84,375/-
4.	Compensation after applying multiplier of 14	84,375 x 14 = 11,81,250/-

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5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellants no.2 to 4	40,000/-
	Total	12,91,250/-

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 entire 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 22, 2019.
Sunil

(LISA GILL)
JUDGE

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