

FAO No. 3592 of 2016 (O&M)

-1-

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

FAO No. 3592 of 2016 (O&M)

Date of Decision: July 04, 2019

Mrs. Shyama Yadav and others

..... Appellants(s)

Versus

Davinder Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Shakti Mehta, Advocate for
Mr. Vikram Bali, Advocate
for the appellants.

None for respondent no.1.

Mr. Amandeep Chhabra, Advocate
for respondent no.2.

Mr. R.C. Gupta, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

As per office report, respondent no.1 could not be served as he was not found residing at the given address.

Learned counsel for the appellants submits that service upon respondent no.1, who was a driver of the offending vehicle, be dispensed with as liability of the insurance company is not in dispute.

Ordered accordingly.

Mr. Amandeep Chhabra, Advocate appears on behalf of respondent no.2. Memo of appearance filed in Court today is taken on record subject to just exceptions.

FAO No. 3592 of 2016 (O&M)

-2-

CM No. 12628-CII of 2016

There is a delay of 76 days in filing of the appeal.

For the reasons mentioned in the application, duly supported by an affidavit of the applicant, as well as arguments addressed, delay of 76 days in filing of the appeal is condoned.

Application is disposed of.

FAO No. 3592 of 2016

This appeal has been filed seeking enhancement of the compensation awarded to the claimants on account of death of Parvesh Yadav vide award dated 09.10.2015, passed by learned Motor Accidents Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal').

The appellants preferred a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of Parvesh Yadav aged 25 due to injuries received by him in a motor vehicle accident, which took place on 24.10.2014, due to the rash and negligent driving of the offending car bearing registration No. CH-01-AW-0332, by its driver Davinder Singh - respondent no.1. Appellants are the parents and younger brother of the deceased. The deceased was unmarried and claimed to be working as a Salesman with Anurag Jewelers, SCO No. 847, NAC, Manimajra, Chandigarh on a salary of Rs.15,000/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Parvesh Yadav died on account of injuries received by him in the motor vehicle accident, which took place on 24.10.2014, due to the rash and negligent driving of the offending car bearing

registration No. CH-01-AW-0332, by its driver Davinder Singh-respondent no.1. Income of the deceased was assessed as Rs.15,000/- per month on the basis of specific evidence led by the claimants in the shape of testimony of PW-3 Anurag Bhardwaj, employer of the deceased. Learned Tribunal awarded a sum of Rs. 18,05,000/- as compensation to the appellants-claimants, the detail of which is as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	15,000/- per month
2.	Income after addition at the rate of 50% on account of future prospects	15,000+7,500 = 22,500/-
3.	Income after deduction of 1/2 on account of personal and living expenses of the deceased	22,500 - 11250 x 12 = 1,35,000/- per annum
4.	Income after applying multiplier of 13	1,35,000 x 13 = Rs.17,55,000/-
5.	Funeral expenses and last rites	25,000/-
6.	Loss of estate	25,000/-
	Grand Total	Rs.18,05,000/-

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

Learned counsel for the appellants while not challenging the income as assessed by the learned Tribunal submits that multiplier of 13 has been wrongly applied. It is fairly stated that compensation under the conventional heads as well as the addition on account of future prospects be re-worked in terms of the judgments of Hon'ble Supreme Court in **National**

FAO No. 3592 of 2016 (O&M)

-4-

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 respondent no.3-insurance company, however, prays that the impugned award dated 09.10.2015 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Learned counsel further submits that addition of 50% on account of future prospects has been wrongly afforded. 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 Parvesh Yadav in the motor vehicle accident, which took place on 24.10.2014, due to the rash and negligent driving of the offending car bearing registration No. CH-01-AW-0331, by its driver Davinder Singh-respondent no.1. There is further no dispute about income of the deceased as assessed by the learned Tribunal i.e. Rs.15,000/- per month. Addition on account of future prospects has to be afforded @ 40% instead of 50% in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. There is merit in the argument raised by learned counsel for the appellants regarding the multiplier to be applied in this case. The matter regarding application of multiplier while assessing the compensation is no longer *res integra*. It has been held by the Hon'ble

FAO No. 3592 of 2016 (O&M)

-5-

Supreme Court in **Munna Lal Jain Vs. Vipin Kumar Sharma, (2015) 6 SCC 347** that the multiplier is to be applied as per the age of the deceased. Therefore, multiplier of 18 has to be applied as the deceased was admittedly 25 years old. Deduction of 50% was correctly effected by learned Tribunal. Instead of Rs.25,000/- awarded by learned Tribunal for loss of estate and funeral expenses, the appellants are entitled to Rs.15,000/- each on both these counts. Appellants no.1 & 2, however, are entitled to a sum of Rs.40,000/- on account of loss of filial 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:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income # 15,000 x 12	1,80,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,80,000+72,000 (1,80,000 x 40%) = 2,52,000/-
3.	Income after 50% deduction on account of personal and living expenses of the deceased	2,52,000 – 50% =1,26,000/-
4.	Total dependency after applying a multiplier of 18	(1,26,000 x 18) = 22,68,000/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of filial consortium	40,000/-
	Grand Total	Rs.23,38,000/-

FAO No. 3592 of 2016 (O&M)

-6-

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 on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

July 04, 2019.

Sunil

**(LISA GILL)
JUDGE**

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