

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

FAO No. 4627 of 2015 (O&M)

Date of decision : October 16, 2019

Kusum and others

.....Appellants

Versus

Rajender and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Suneel Ranga, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondents No. 1 and 2.

Mr. Ajay Singla, Advocate with
Ms. Kamaldeep Kaur, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as the 'Tribunal') on account of death of Rakesh Kumar vide award dated 11.03.2015.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow and children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rakesh Kumar on 19.08.2013, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Car bearing registration No. DL-2CAD-3007, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Rakesh Kumar died in the accident which took place on 19.08.2013 due to rash and negligent driving of the

offending Car bearing registration No. DL-2CAD-3007 by respondent No.1. Learned Tribunal while assessing the income of the deceased to be ₹8,000/- per month awarded a sum of ₹9,05,944/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 14 was applied. Additionally, a sum of ₹10,000/- was awarded on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹8,000/- per month by the learned Tribunal, however, in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects should be afforded. It is further submitted that multiplier of 15 instead of 14 has to be applied and compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondents while refuting the arguments raised by learned counsel for the appellants submit that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 11.03.2015 be upheld.

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

There is no dispute that Rakesh Kumar lost his life due to

injuries received by him in a motor vehicle accident, which took place on 19.08.2013 due to the rash and negligent driving of Car bearing registration No. DL-2CAD-3007, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 40 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹8,000/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹8,000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 25% (₹2000/-) is afforded, as the deceased was 40 years old at the time of accident, which takes income of the deceased to ₹10,000/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3rd has been correctly applied as number of dependants is three (3), thereby rendering income of the deceased to be ₹6667/-(10000-3333). Applying a multiplier of 15 instead of 14, dependancy of the claimants is assessed as ₹12,00,060/- (₹6667x12x15). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹10,000) and loss of estate. The claimant widow is entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other** 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others**, appellants No. 2 and 3 i.e. children of the

deceased are entitled to ₹40,000/- on account of loss of parental consortium.

Claimants are, thus, entitled to total compensation of ₹13,10,060/- detailed as under:-

Loss of dependency(₹6667x12x15)	₹12,00,060/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹13,10,060/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above.

Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. 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.

October 16, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No