

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

**F.A.O. No. 3664 of 2016 (O&M)
Date of Decision: 22.11.2019**

Khushal Singh Dalal

.....Appellant.

Versus

Dilbag and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Ram Krishan Rana, Advocate
for the appellant.

Service upon respondents no.1 to 3, dispensed with vide order
dated 27.05.2019

Mr. Neeraj Khanna, Advocate
for respondent no.4-Insurance Company.

LISA GILL, J.

Appellant-claimant, seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (for short 'tribunal'), vide impugned award dated 20.03.2014, on account of death of his daughter namely Shalu Dalal.

Appellant-claimant is the father of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Shalu Dalal (deceased) on 02.08.2011, at about 03.30.p.m., was returning to her house from Rawal College, with her cousin brother namely Praveen Dalal, on motorcycle bearing registration no. DL-3SA-9595. When they reached near M. Tak Company, on Seekri Piyala Road, Tehsil Ballabgarh, District Faridabad, a

truck i.e., Container/truck, bearing registration no. HR-38-E-4485, being driven by respondent no.1-Dilbagh, in a rash and negligent manner, struck the motorcycle from behind. As a result thereof, they fell down and tyre of the offending Container ran over Shalu's head and she died at the spot. Postmortem was conducted at B.K.Hospital, Faridabad. FIR No. 140 dated 02.08.2011, under Sections 279, 304-A IPC, Police Station Sadar Ballabgarh, was registered against respondent no.1, in this respect. Compensation was thus claimed.

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

Learned tribunal while considering the deceased to be student of B.Tech (Electronic and Communication) 2nd year, assessed her income as ₹5000/- per month and awarded a total sum of ₹3,50,000/-, which is detailed as under:-

1.	Total income of deceased	₹5000/- p.m.
2.	Deduction	1/ 2
3.	Multiplier	11
4.	Loss of dependency	₹3,30,000/-
5.	Last rites ceremonies	₹20,000/-
	Total	₹3,50,000/-

Aggrieved therefrom, the present appeal has been filed by the appellant-claimant.

Learned counsel for the appellant vehemently argues that income of the deceased has been wrongly assessed as ₹5000/- per month

Increment on account of future prospects should be afforded in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009** and compensation under the conventional heads be enhanced as well. It is thus prayed that this appeal be allowed and the compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.4-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Shalu Dalal, in a motor vehicle accident which took place on 02.08.2011 due to the rash and negligent driving of the offending container bearing registration No.HR-38-E-4485, by respondent No.1-Dilbagh. It is further a matter of record that the deceased was a student of B.Tech (Electronic and Communication) 2nd year at the Institute of Engineering and Technology.

Learned counsel for the Insurance Company, is unable to deny that the minimum wage of even a skilled labourer in the State of Haryana, at the time of the accident i.e., 02.08.2011, was ₹5293/- per month. The deceased was pursuing a professional course at the time of the accident and would have been able to earn atleast a sum of ₹8000/- per month. Thus, her income is assessed as ₹8000/- per month instead of ₹5000/- per month.

As the deceased was admittedly about 25 years old at the time of accident, increase in income at the rate of 40% on account of future

prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's** case (**Supra**).

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that multiplier is to be applied with reference to the age of the deceased. The deceased in this case was admittedly 25 years old at the time of the accident. Therefore multiplier of 18, instead of 11, is required to be applied in this case.

Deduction of 1/ 2 is correctly applied by the learned tribunal. Instead of ₹20,000/- awarded towards last rites ceremonies, appellant-claimant, is entitled to a sum of ₹15,000/- each for funeral expenses and loss of estate. Appellant is also entitled to a sum of ₹40,000/- towards loss of parental consortium in terms of the judgement 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 2018, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others.**

Appellant-claimant, is, thus, entitled to compensation which is reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹8000/- p.m.
2.	Loss of income after addition at the rate of 40% on account of future prospects	₹8000 + (8000 x 40%) = ₹11,200/-
3.	Deduction of 1/2 on account of personal expenses	₹11,200 – (11,200 x 1/2) = ₹5600/-

4.	Loss of dependency after applying a multiplier of 18	(₹5600 x12 x 18) = ₹ 12,09,600/-
5.	Loss of estate	₹15,000/-
6.	Funeral expenses	₹15,000/-
7.	Parental consortium	₹40,000/-
	Total	₹12,79,600/-

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 of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. However, the appellant, is not entitled for any interest for the period of delay of 465 days in filing of this appeal. Manner of disbursement as determined by the learned Tribunal shall remain the same.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

22.11.2019
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.