

FAO No. 5546 of 2015

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

FAO No. 5546 of 2015

Date of Decision: November 06, 2019

Firdoshi and others

..... Appellants(s)

Versus

Sahab Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Abhinav Kalia, Advocate
for the appellants.

None for respondents no.1 & 2.

Mr. Ram Avtar, Advocate
for respondent no.3-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 16.05.2015, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal).

Claimants who are the widow, four minor children and aged mother of the deceased Bifa alias Jarif, filed a petition under Section 166 and 140 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Bifa alias Jarif, due to the injuries suffered by him in the motor vehicle accident, which took place on 14.02.2014. Deceased was claimed to

be 37 years old, working as an agriculturist and a dairy farmer, earning Rs.50,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Bifa alias Jarif lost his life due to the injuries received by him in the accident in question, which took place on 14.02.2014, due to the rash and negligent driving of the offending truck bearing registration No. HR-37-A-4808, by its driver Sahab Singh - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.4,000/- per month by considering him to be an unskilled worker, awarded a sum of Rs.10,30,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	4,000/- per month
2.	Income after addition of 50% on account of future prospects	4000/- + 2,000/- = 6,000/-
3.	Income after deducting 1/4 th as personal living expenses of the deceased	6,000/- minus 1,500/- = 4,500/-
4.	Dependency after applying multiplier of 15	4,500 x 12 x 15 = 8,10,000/-
5.	Loss of consortium to widow	1,00,000/-
6.	Loss of love and affection and care and guidance to children	1,00,000/-
7.	Last rites	20,000/-
	Total	Rs.10,30,000/-

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

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Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as Rs.4,000/- per month as even the minimum wage of an unskilled labourer in the State of Haryana at the time of the accident was Rs.5,547/- per month. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **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**. It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, submits that adequate compensation has already been awarded and there is no scope for any enhancement. Dismissal of this appeal is prayed for.

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

There is no dispute regarding death of Bifa alias Jarif in the motor vehicle accident, which took place on 14.02.2014, due to the rash and negligent driving of the offending truck bearing registration No. HR-37-A-4808, by its driver Sahab Singh-respondent no.1. The appellants have claimed the deceased Bifa @ Jarif to be an agriculturist and a dairy farmer. Learned counsel for the appellants fairly accepts that there is no clear or cogent evidence on record regarding the income and vocation of the deceased. Be that as it may, it is undeniable that even the minimum wage of the unskilled labourer in the State of Haryana at the time of the accident i.e. on 14.02.2014 was Rs.5,547/- per month. Income of the deceased is

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accordingly assessed as Rs.5,550/- per month instead of Rs.4,000/- 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*, 40% increment has to be afforded on account of future prospects and not 50% as afforded by the learned Tribunal. Deduction of 1/4th was correctly effected by learned Tribunal. As the deceased was admittedly 37 years old at the time of the accident, multiplier of 15 was correctly applied by learned Tribunal. However, instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 to 5 are entitled to a sum of Rs.40,000/- towards loss of parental consortium and not Rs.1,00,000/- on account of loss of love and affection, care and guidance. Appellant no.6 is also entitled to a sum of Rs.40,000/- towards loss of filial consortium. Reference in this regard can gainfully be made to the judgment of the 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-2110-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others*. 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 towards last rites.

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

Sr. No.	Heads	Calculations
1.	Income	5,550 x 12 = 66,600/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	66,600 - 16,650/- (1/4 th) = 49,950/-
3.	Total income after addition at the rate of 40% on account of future prospects	49,950 + 19,980 = 69,930/-
4.	Dependency after applying multiplier of 15	69,930 x 15 = 10,48,950/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 to 5	40,000/-
9.	Loss of filial consortium to appellant no.6	40,000/-
	Total	11,98,950/-

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 enhanced 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.

(LISA GILL)
JUDGE

November 06, 2019.

Sunil

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