

FAO No. 5611 of 2015 (O&M)

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

FAO No. 5611 of 2015 (O&M)

Date of Decision: February 25, 2019

Bibi Dasuda @ Dasuda Begam and others

..... Appellants(s)

Versus

Dilbagh Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Ms. Anju Sharma Kaushik, DAG, Punjab,
for respondent no.2.

Ms. Nitika Bansal, Advocate for
Mr. Nitin Kaushal, Advocate
for respondent no.3-PRTC.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 14.05.2015, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal).

At the outset, learned counsel for the appellants submits that she does not press this appeal qua appellant no.3 but confines relief for appellants no.1 and 2 i.e. the parents of the deceased Hanan.

Undisputed facts of the case are that Hanan (since deceased) son of the appellants no.1 & 2 lost his life in a motor vehicle accident, which took

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place on 21.12.2013, caused due to the rash and negligent driving of the offending bus bearing registration No. PB-65-T-3716 by its driver Dilbagh Singh - respondent no.1. Finding of the learned Tribunal on this issue has attained finality.

Learned Tribunal on considering the evidence on record as well as facts and circumstances, while assessing the income of the deceased to be Rs.6,000/- per month, awarded a sum of Rs. 9,43,000/- 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	6,000/- p.m.
2.	50% increase in future income	6000 + 3000 = 9000/-
3.	50% deducted as personal expenses of the deceased	9000 - 4500 = 4,500/-
4.	Compensation after applying a multiplier of 17	4500 x 12 x 17 = 9,18,000/-
5.	Transportation and Funeral expenses	25,000/-
	Grand Total	Rs. 9,43,000/-

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

Learned counsel for the appellants argues that the deceased was a mason by profession earning Rs.10,000/- per month. His income has been wrongly assessed as Rs.6,000/- per month by the learned Tribunal. It is however, fairly stated that increment on account of future prospects has to be 40% instead of 50% in terms of judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,**

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2017(16) SCC 680. Learned counsel, however, argues that compensation under the conventional heads be afforded as per judgments 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.,** in Civil Appeal No.9581 of 2018 decided on 18.09.2018.

Learned counsel for the respondents, per contra, submit that there is no ground for any enhancement of the compensation and the same is in fact excessive. Dismissal of the appeal is prayed for.

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

As noticed earlier, there is no dispute about the death of Hanan in a motor vehicle accident, which took place on 21.12.2013, due to the rash and negligent driving of the offending bus bearing registration No. PB-65-T-3716 by its driver Dilbagh Singh - respondent no.1. The deceased Hanan was admittedly 25 years old at the time of the accident. Though, he is claimed to be earning Rs.10,000/- per month by working as a mason, there is no clear and cogent evidence on record to prove the exact income. However, it cannot be lost sight of, that in the State of Punjab minimum wage was Rs.6,475/- per month at the time of the accident for a skilled labourer. There is no evidence to rebut the claim of the appellants that deceased was working as a mason. Income of the deceased is thus assessed as Rs.6,475/- per month. In terms of the judgment of Hon'ble Supreme Court in **National**

Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680, 40% increment has to be afforded for future prospects (instead of 50% awarded by the learned Tribunal). Deduction of 50% was correctly effected by learned Tribunal. As the deceased was admittedly 25 years old at the time of the accident, multiplier of 18 instead of 17 is to be applied. Appellants no.1 & 2 are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate (instead of Rs.25,000/- awarded for transportation and last rites by the learned Tribunal). Appellants no.1 & 2, in terms of the judgment of Hon'ble Supreme Court in *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*, in Civil Appeal No.9581 of 2018 decided on 18.09.2018, are entitled to Rs.40,000/- on account of loss of filial consortium.

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 # 6475 – 50% = 3,238/-	38,856/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	38,856+15542 (37,500 x 40%) = 54,398/-
3.	Total dependency after applying a multiplier of 18	(54,398 x 18) = 9,79,164/-
4.	Funeral expenses and loss of estate 15,000 x 2	30,000/-
5.	Loss of filial consortium	40,000/-
	Grand Total	Rs.10,49,164/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above.

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Claimants shall be entitled to interest on the enhanced compensation 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.

February 25, 2019.

Sunil

**(LISA GILL)
JUDGE**

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