

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

**F.A.O. No.4695 of 2016 (O&M)
Date of Decision: 01.10.2019**

Sumitra Devi and others

.....Appellants.

Versus

Raj Pal and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Rohit Chaudhary, Advocate
for Mr. Vijay Saini, Advocate
for the appellants.

Mr. Pradeep Kumar, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Jind (for short 'tribunal'), vide impugned award dated 08.02.2016, on account of death of Manphool.

Appellants-claimants, who are the widow and children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'Act') claiming compensation on account of death of Manphool, which took place on 07.12.2014, due to rash and negligent driving of driver of the offending vehicle i.e., tractor trolley bearing registration no. HR-33-C-7843 by its driver-respondent no.1-Raj Pal. FIR No. 403 under Sections 279, 336, 338 and 304-A IPC, Police Station Safidon, District Jind, was registered, in this respect.

Learned tribunal while accepting the deceased to be a skilled

labourer, assessed his income as ₹7500/- per month. A sum of ₹8,25,000/- was awarded to the claimants, which is detailed as under:-

1.	Total income of deceased	₹7500/- p.m.
2.	Deduction	1/ 3 rd
3.	Multiplier	5
4.	Funeral expenses	₹25,000/-
5.	Loss of consortium	₹1,00,000/-
6.	Medical expenses	₹4,00,000/-
	Total	₹8,25,000/-

Aggrieved therefrom, the present appeal has been filed by the appellants-claimants.

Sole argument raised by learned counsel for the appellants is that a multiplier of 7 instead of 5 should be applied in this case as the deceased was 62 years old at the time of the accident. He fairly states that the compensation under the conventional heads be reworked in terms of the judgements of the 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., 2018(4) RCR(Civil) 333**. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3-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. Appellants no.2 and 3 are the major sons of the deceased. They are not entitled to any compensation. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone

through the file with their assistance.

There is no dispute regarding death of Manphool in a motor vehicle accident which took place on 07.12.2014 due to the rash and negligent driving of the offending tractor trolley bearing registration No.HR-33-C-7843 by respondent No.1-Raj Pal.

It is a matter of record that the deceased-Manphool was 62 years old at the time of the accident. No dispute has been raised regarding income of the deceased as assessed by the learned tribunal to be ₹7500/- per month. Deduction of 1/ 3rd has been correctly effected by the learned tribunal. 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**, multiplier of 7 instead of 5 has to be applied as the deceased was 62 years old at the time of the accident. Compensation of ₹4,00,000/- towards medical expenses, as awarded by the learned tribunal, is maintained.

Appellant no.1, is entitled to a sum of ₹40,000/- instead of ₹1,00,000/- towards loss of consortium. Appellants are entitled to a sum of ₹15,000/- each instead of ₹25,000/- towards loss of funeral expenses and loss of estate. Appellants no.2 and 3 are held entitled to ₹40,000/- on account of loss of parental 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 No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

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

Sr. No.	Heads of Claim	Amount
1.	Income	₹7500/- p.m.
3.	Income after 1/3rd deduction on account of personal expenses	₹7500 – (7500 x 1/3) = ₹5000/-
4.	Total dependency after applying a multiplier of 7	(5000 x12 x 7) = ₹ 4,20,000/-
5.	Loss of consortium	₹40,000/-
6.	Loss of estate	₹15,000/-
7.	Funeral expenses	₹15,000/-
8.	Parental consortium	₹40,000/-
9.	Medical expenses	₹4,00,000/-
	Total	₹9,30,000/-

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. 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.

01.10.2019
s.khan

[LISA GILL]
Judge

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