

FAO No. 4825 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4825 of 2016 (O&M)

Date of Decision: February 25, 2019

Kusum Lata and others

..... Appellants(s)

Versus

Rajesh Kumar and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Himanshu Sharma, Advocate
for the appellants.

None for respondent no.1.

Mr. Punit Jain, Advocate
for respondent no.2-insurance company.

LISA GILL, J. (oral)

CM No.16568-CII of 2016

None for respondent no.1 despite service.

There is a delay of 29 days in filing of the appeal.

For the reasons mentioned in the application, duly supported by an affidavit of the applicant, as well as arguments addressed, delay of 29 days in filing of the appeal is condoned.

Application is disposed of.

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This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 04.01.2016, passed by learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal) on account of death of Subhash Chand.

The appellants/claimants preferred a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Subhash Chand. The appellants are the widow and four minor children of Subhash Chand. Subhash Chand lost his life in a motor vehicle accident, which took place on 18.04.2015, due to the rash and negligent driving of the offending motorcycle bearing registration No. HR-04F-8783 by its driver Rajesh Kumar - 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 of the case, while assessing the income of the deceased to be Rs.8,000/- per month, awarded a sum of Rs. 13,33,000/- 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	8,000/- p.m.
2.	1/4th deducted as personal expenses of the deceased	8000 - 2000 = 6,000/-
3.	Compensation after applying a multiplier of 14	6000 x12 x 14 = 10,08,000/-
4.	Funeral expenses	25,000/-
5.	Loss of love and affection to appellants no.2 to 5 (50,000 x 4)	2,00,000/-
	Grand Total	Rs.13,33,000/-

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

Learned counsel for the appellants argues that increment on account of future prospects has not been afforded. He, however, does not disputes the income of the deceased as assessed by the learned Tribunal. It is, thus, prayed that the compensation awarded to the appellants be enhanced.

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Learned counsel for respondent no.2-insurance company, however, prays that the impugned award dated 04.01.2016 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Subhash Chand in the manner as claimed. There is further no dispute regarding the income of the deceased as assessed by the learned Tribunal. Subhash Chand (deceased) was admittedly 44 years old at the time of the accident. In terms of the judgment of Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680*, 25% increment is afforded for future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. Multiplier of 18 was also correctly applied by learned Tribunal. The appellants 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 on account of funeral expenses). Appellant no.1-widow is entitled to a sum of Rs.40,000/- on account of loss of consortium. In the facts and circumstances of the case, appellants no.2 to 5 are entitled to a total sum of Rs.1,00,000/-, for loss of parental consortium instead of Rs.40,000/- each as urged by learned counsel for the appellants.

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

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<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income # 8000 – 1/4 th = 6,000/- per month	72,000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	72,000+18000 (72,000 x 25%) = 90,000/-
3.	Total dependency after applying a multiplier of 18	(90,000 x 18) = 16,20,000/-
4.	Funeral expenses and loss of estate 15,000 x 5	75,000/-
5.	Loss of consortium to appellant no.1	40,000/-
6.	Loss of parental consortium to appellants no.2 to 5	1,00,000/-
	Grand Total	Rs.18,35,000/-

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 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