

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

**FAO-5957-2015 (O&M)
Decided on : 19.12.2019**

Kuldeep Kaur and others

... Appellant(s)

Versus

Ashu Goel and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. A.A. Pathak, Advocate
for the appellant(s).

Mr. Ravi K. Matto, Advocate
for respondents No.1 & 2.

Mr. Amit Jaiswal, Advocate
for respondent No.3.

MANJARI NEHRU KAUL, J.

The instant appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 22nd May, 2014.

The claimants are the widow, two children and parents of the deceased Bagicha Singh. They filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'MV Act'), seeking compensation on account of death of Bagicha Singh, who died in a motor vehicle accident on 05.02.2013. It was claimed that the deceased was working as a 'Granthi' in a Gurudwara, wherein, he was getting Rs. 3800/- per month. Besides this, it was claimed that he was also working as a Katha Wachak and Kirtinia

(musician), for which he would get Rs. 1100/- for each programme. It was further claimed that the deceased was earning an income of Rs. 30,000/- per month, from dairy farming.

Upon notice, respondents No.1 & 2 (driver and owner, respectively) in their written statement denied that the accident ever took place with the offending vehicle and alleged that a false and frivolous FIR had been got registered on the basis of a concocted story. Respondent No.3 – Insurance Company in its written statement submitted that the driver of the offending vehicle was not holding a legal and valid driving licence and hence, they were not liable to pay any compensation. It was further submitted that respondents No.1 & 2 had been falsely implicated in the accident in collusion with the police.

The Tribunal on analysis of the evidence and other material on record, arrived at a finding that the death of the Bagicha Singh was on account of the rash and negligent driving of respondent No.1 and the appellants/claimants being the legal heirs and dependents of the deceased Bagicha Singh were entitled to the claimed compensation.

The Tribunal after taking into account the age of the deceased, who was 36 years of age at the time of the accident in question, awarded the compensation, which is reproduced as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1.	Annual income of deceased	Rs. 6247/- per month x 12 months = Rs. 74964/- p.a.
2.	Increase on account of inflation and indexation @ 50% when deceased was below 40 years i.e. 36 years old at the time of his death as per judgment cited as Ekta & others Vs. DTC and others, 2012 (3) TAC404 (Del.)	Rs. 74964/- Rs. 37482/- Rs. 1,12,446/-

3.	Rs. 28,111/- deducted as personal expenses being 1/4 th of his total	Rs. 1,12,446/- 28,111/- = 84,335/-	Rs.
4.	By applying multiplier of 16, total income comes to	Rs. 84335 x 16 = Rs. 1349360	
5.	Funeral expenses	Rs. 10,000/-	
6.	Loss of Consortium to petitioner No.1	Rs. 1,00,000/-	
7.	Consortium to petitioners No.2, 3 & 4	Rs. 20,000/- x 3 = Rs. 60,000	
	Total:	Rs. 15,19,360/-	

Learned counsel for the appellants has argued that the compensation so awarded is highly inadequate and the Tribunal failed to consider the income of the deceased from his dairy business while assessing the compensation. Hence, the compensation deserves to be enhanced accordingly. In support reliance was placed upon the judgment of the Apex Court rendered in **Syed Sadiq etc. Vs. Divisional Manager United India Insurance Company, 2014(1) RCR (Civil) 765**. It was vehemently urged that the Tribunal gravely erred in treating the deceased as a labourer by ignoring that he was a diploma-holder in Sangeet and as such he was entitled to compensation as would be applicable to a skilled worker as per the Government notification of State of Punjab *qua* minimum wages for the relevant period.

Learned counsel for the Insurance Company on the other hand while opposing the prayer for enhancement has submitted that in fact the compensation has already been given on the higher side and was not in consonance with the law laid down by the Apex Court in **National Insurance Co. Ltd. Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**.

Heard.

On a perusal of the evidence on record and the compensation awarded to the appellants/claimants, it transpires that the deceased being a 'Granthi' can be put into the category of 'semiskilled worker'. As per the Government notification for the relevant period, his income is taken as Rs.6247/- per month, instead of Rs. 6200/- per month. Further, the future prospects have also been wrongly assessed at 50%, which should have been in fact only 40%. However, in view of the Apex Court judgment rendered in **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors, 2018(4) RCR (Civil), 333**, parental consortium deserves to be assessed and granted to all the three minor children of the deceased, which would come to Rs. 1,20,000/- (Rs. 40,000 x 3). It would be relevant to notice that no appeal has been preferred by respondent No.3 – Insurance Company for scaling down the compensation awarded by the Tribunal.

In the facts and circumstances of the case, the instant appeal deserves to be dismissed, as the appellants/claimants have already been adequately and sufficiently compensated.

Appeal is disposed off accordingly.

(MANJARI NEHRU KAUL)
JUDGE

December 19, 2019

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*