

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

FAO No. 7635 of 2014 (O&M)

Date of decision : August 19, 2019

Gurdeep Kaur and others

.....Appellants

Versus

Mohd. Mustaq and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellants.

Ms. Madhu Sharma, Advocate
for respondent No. 2.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as the 'Tribunal') on account of death of Harjinder Singh vide award dated 05.07.2013.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow, children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Harjinder Singh on 14.10.2010, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Tipper bearing registration No. JK-11-5247, by respondent No.1. The deceased, aged 38 years at the time of the accident was stated to be earning a sum of ₹24,223/- per month while working as a driver with BSF.

Learned Tribunal on considering the evidence on record, facts

and circumstances concluded that Harjinder Singh died in the accident which took place on 14.10.2010 due to rash and negligent driving of the offending Tipper bearing registration No. JK-11-5247 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹24,223/- per month i.e. ₹2,90,676/- per annum and deducting a sum of ₹13,460/- per annum towards income tax, awarded a sum of ₹27,92,165/- with interest at the rate of 8% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 15 was applied. Additionally, a sum of ₹10,000/- on account of loss of consortium and a sum of ₹5,000/- each on account of loss of estate and funeral expenses was awarded.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹2,90,676/- per annum by the learned Tribunal, however, in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects should be afforded. Compensation under the conventional heads, it is submitted, is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the

compensation has been rightly assessed, thus, impugned award dated 05.07.2013 be upheld.

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

There is no dispute that Harjinder Singh lost his life in a motor vehicle accident, which took place on 14.10.2010 caused due to the rash and negligent driving of Tipper bearing registration No. JK-11-5247, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 38 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹2,90,676/- per annum as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹2,90,676/- per annum. After deducting a sum of ₹13,460/- per annum towards income tax returns, annual income of the deceased was ₹2,77,216/-. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 50% (₹138608/-) is afforded, as the deceased was 38 years old, in regular employment at the time of accident, which takes income of the deceased to ₹415824/- per annum. 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, deduction of $1/4^{\text{th}}$ instead of $1/3^{\text{rd}}$ is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹311868/- (415824-103956). Applying a multiplier of 15, dependency of the claimants is assessed as ₹46,78,020/- (₹311868 x 15). Instead of ₹5000/- each towards

loss of estate and funeral expenses, the claimants are also entitled to ₹15,000/- each, besides the claimant widow being entitled to ₹40,000/- (instead of ₹10,000/-) on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others**, appellants No. 3 and 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellant No. 1 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹48,28,020/- detailed as under:-

Loss of dependency (₹311868 x15)	₹46,78,020/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹48,28,020/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

August 19, 2019
rts

(Lisa Gill)
Judge

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