

FAO No. 5070 of 2016 (O&M)

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

FAO No. 5070 of 2016 (O&M)

Date of Decision: February 11, 2019

Lekho Devi and another

..... Appellants(s)

Versus

Tejbir and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. H.S. Dhillon, Advocate for
Mr. Vikram Singh, Advocate
for the appellants.

Mr. Sanjeev K. Arora, Advocate
for respondent no.3-insurance company.

LISA GILL, J.

This appeal has been filed by the claimants/appellants seeking enhancement of compensation awarded to the claimants vide award dated 12.02.2016, passed by learned Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal).

Sonu son of Ved Parkash died in the motor vehicle accident, which took place on 14.09.2013 due to the rash and negligent driving of truck bearing registration No. UP-12-T-2529 by respondent no.1-Tejbir. In the petition under Section 166/140 of the Motor Vehicles Act filed by the claimants, learned Tribunal assessed the income of the deceased as Rs.6,800/- per month and awarded sum of Rs.10,10,640/-, which is detailed as under:-

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<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	6,800/- p.m.
2.	50% deducted as personal expenses of the deceased	6800 - 3400 = 3,400/-
3.	Compensation after applying a multiplier of 18	3400 x 12 x 18 = 7,34,400/-
4.	Loss of love and affection of mother	1,00,000/-
5.	Transportation and funeral expenses	25,000/-
6.	Medical expenses	1,51,240/-
	Grand Total	Rs. 10,10,640/-

While there is no challenge to the income of the deceased as assessed by the learned Tribunal, learned counsel for the appellants seeks enhancement of the compensation awarded by learned Tribunal on the ground that increment on account of future prospects has not been afforded. It is further submitted that the claimants-appellants have no objection in case they are awarded compensation on account of loss of filial consortium in terms of 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* instead of Rs.1,00,000/- awarded on account of loss of love and affection to the mother. It is prayed that total compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent no.3-insurance company refutes the above said arguments while submitting that just and reasonable compensation has been awarded. Excessive amount has been awarded under

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the conventional heads to which the appellants are not entitled to. Thus dismissal of the appeal is prayed for.

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

There is no dispute regarding the death of Sonu son of Ved Parkash in the motor vehicle accident, which took place on 14.09.2013 due to rash and negligent driving of the offending vehicle by respondent no.1- Tejbir. Further there is no dispute about the income of the deceased as assessed by the learned Tribunal i.e. Rs.6,800/- per month. In terms of **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, 40% increment is afforded to the appellants on account of future prospects as the deceased was admittedly 25 years old. Multiplier of 18 was correctly applied and deduction on account of personal expenses was also correctly made. Instead of sum of Rs.25,000/- claimants are entitled to Rs.15,000/- each on account of funeral expenses and loss of estate. In terms of the judgment of Hon'ble Supreme Court in **Magma General Insurance Company Ltd.** case (supra), the appellants are entitled to a sum of Rs.40,000/- each for loss of filial consortium and not the sum of Rs.1,00,000/- awarded to appellant no.1 on account of loss of love and affection. Medical expense of Rs.1,51,240/- as awarded by the Tribunal on the basis of the evidence on record is maintained.

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	6,800/- p.m.
2.	50% deducted as personal expenses of the deceased	6800 - 3400 = 3,400/-
3.	40% increase on account of future prospects	3400 + 1360 =4760/-
4.	Compensation after applying multiplier of 18	4760 x 12 x 18 = 10,28,160/-
5.	Loss of filial consortium	40,000+40,000 =80,000/-
6.	Funeral expenses and loss of estate	15,000+15,000 =30,000/-
7.	Medical expenses	1,51,240/-
	Grand Total	₹12,89,400/-

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. 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 11, 2019.
Sunil

(LISA GILL)
JUDGE

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