

FAO No. 6479 of 2015 (O&M)

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

FAO No. 6479 of 2015 (O&M)

Date of Decision: February 13, 2019

Soniya and others Appellants(s)

Versus

Sandeep and others Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: None for the appellants.

None for respondents no.1 and 2.

Mr. R.D. Sharma, Advocate
for respondent no.3-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 23.03.2015, passed by learned Motor Accidents Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal).

Claim petition under Section 166 of the Motor Vehicles Act was filed by the appellants claiming compensation on account of death of Manish, husband of appellant no.1 and son of appellants no.2 & 3.

There is no dispute regarding the death of Manish in the motor vehicle accident, which took place on 24.04.2014 due to rash and negligent driving of the offending vehicle i.e. Tata Sumo bearing registration No. HR-37C-9526 by its driver namely Sandeep – respondent no.1. Finding of the learned Tribunal on this issue has attained finality. No appeal has been preferred by the respondents.

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Learned Tribunal on considering the evidence on record, facts and circumstances, while assessing income of the deceased to be Rs.6,000/- per month, awarded a sum of Rs.13,60,300/-, the detail of which is as under:-

1.	Loss of income	8,64,000/-
2.	Loss of consortium (only for petitioner no.1)	1,00,000/-
3.	Funeral expenses (only for petitioner no.1)	25,000/-
4.	Medical expenses	3,71,300/-
	Total	13,60,300/-

The deceased was claimed to be an agriculturist, engaged in dairy farming as well. However, there is no evidence on record to substantiate this claim except the oral statement of PW-1 Soniya - widow of the deceased. Therefore, income of the deceased as assessed by the learned Tribunal as Rs.6,000/- per month is upheld. In terms of the judgment of Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others*, 2017(16) SCC 680, 40% increment to be afforded. As the deceased was admittedly 25 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Deduction of 1/3rd was correctly effected by learned Tribunal. Instead of Rs.25,000/- afforded by the learned Tribunal on account of funeral expenses, the claimants are entitled to a sum of Rs.15,000/- each towards funeral expenses and loss of estate. In terms of *Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*, in Civil Appeal No.9581 of 2018

decided on 18.09.2018, all the claimants are entitled to a sum of Rs.40,000/- each for loss of consortium (spousal and filial) instead of Rs.1,00,000/- awarded to appellant no.1. Compensation on account of medical expenses incurred on the treatment of the deceased before his death as awarded by the learned Tribunal is maintained.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	48,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	48,000 + 19200(48,000 x 40%) = 67,200
3.	Total dependency after applying a multiplier of 18	(67,200 x 18) = 12,09,600/-
4.	Funeral expenses/Last rites @ 15,000 x 3	45,000/-
5.	Loss of spousal to appellant no.1	40,000/-
6.	Loss of filial consortium to appellants no.2 & 3	80,000/-
7.	Medical expenses	3,71,300/-
	Grand Total	Rs.17,45,900/-

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.

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Copy of this order be conveyed to the appellants at the given
address.

February 13, 2019.
Sunil

(LISA GILL)
JUDGE

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