

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 5459 of 2016(O&M)

Date of Decision: April 03 , 2019.

Somwati and others APPELLANT (s)

Versus

Ram Chander and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Shakti Mehta, Advocate for
Mr. Vikram Bali, Advocate
for the appellants.

Mr. Amit Kumar Goyal, Advocate
for respondent No.3 – Insurance company

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

CM No.18851-CII of 2016

There is a delay of 340 days in filing of the appeal.

Learned counsel for the applicant/appellants submits that the delay has occurred due to the reasons beyond the control of the applicant/appellants. It is further submitted that in case there is any enhancement of compensation in appeal, the claimants shall not claim any interest for the period of delay.

Heard learned counsel for the parties.

For the reasons mentioned in the application, duly supported by

affidavit of the applicant, as well as arguments addressed, delay of 340 days in filing of the appeal is condoned. However, the claimants shall not be entitled to interest for the said period in case of enhancement of compensation, if any, in the appeal.

Application is, accordingly, disposed of.

FAO No.5459 of 2016

Notice of motion.

Mr. Amit Kumar Goyal, Advocate accepts notice on behalf of respondent No.3-Insurance company. Liability of the Insurance company is not in dispute, thus, service upon respondents No.1 and 2 is dispensed with.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Panchkula (for short, the 'Tribunal') vide impugned award dated 23.01.2015 on account of death of Santosh Kumar in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Santosh Kumar, who lost his life in a motor vehicle accident which took place on 10.08.2013. FIR No.172 dated 11.08.2013 under Sections 279/337/304A IPC, Police Station Pinjore was registered against respondent No.1-driver.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of car bearing registration No. HR-08-M-3334 by respondent No.1-Ram Chander. This finding of the learned Tribunal has attained finality.

Learned Tribunal while accepting deceased-Santosh Kumar to be 32 years old, assessed his income as ₹6,000/- per month. Addition in income at the rate of 30% was afforded towards future prospects. Deduction to the extent of 1/5th was effected. Multiplier of 16 was applied. ₹50,000/- was awarded on account of loss of love and affection, funeral expenses etc. A total sum of ₹12,48,080/- was awarded to the claimants.

Aggrieved therefrom, the present appeal has been filed by the claimants, who are parents of the deceased.

Learned counsel for the appellants does not challenge income of the deceased as assessed by the learned Tribunal. It is however submitted that increment at the rate of 40% on account of future prospects should be afforded. It is further submitted that compensation under the conventional heads is meagre. It is thus prayed that the amount of compensation awarded to the appellants be reworked accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. 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 death of Santosh Kumar in a motor vehicle accident which took place on 10.08.2013 due to the rash and negligent driving of the offending car bearing registration No.HR-08-M-3334 by respondent No.1-Ram Chander. Neither is there a dispute regarding liability of

the Insurance company. Deceased-Santosh Kumar was 32 years old at the time of the accident. No challenge has been raised to assessment of income of the deceased as ₹6,000/- per month by the learned Tribunal. However, the claimants are entitled to addition in income at the rate of 40% instead of 30%, on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Deduction of 1/5th towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 16 has been rightly applied as well. Instead of ₹50,000/- on account of loss of love and affection and funeral expenses etc., ₹15,000/- each on account of funeral expenses and loss of estate is awarded to the claimants. In view of the judgments of the Hon'ble Supreme Court in Pranay Sethi (supra) and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others), ₹40,000/- is awarded to appellant No.1 on account of loss of spousal consortium, besides, ₹40,000/- to appellants No.2 to 6 on account of loss of parental consortium and another sum of ₹40,000/- is awarded to appellant No.7 on account of loss of filial consortium.

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	6000 p.m. i.e. ₹72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000 + (72,000 x 40%) = 1,00,800

3.	Net income after 1/5 th deduction on account of personal expenses	1,00,800 – (1,00,800 x 1/5) = 80,640
4.	Total dependancy after applying a multiplier of 16	(80,640 x 16) = 12,90,240
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 to 6	40,000
9.	Loss of filial consortium to appellant No.7	40,000
Grand Total		₹14,40,240/-

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 entire amount at the rate of 7.5% per annum, instead of 6%, from the date of filing of the petition till realization. However, the claimants shall not be entitled to interest for the period of delay in filing of the appeal. Manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

April 03 , 2019.
'sd'/'om'

(LISA GILL)
JUDGE

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