

FAO No. 6486 of 2015 (O&M) .

-1-

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

FAO No. 6486 of 2015 (O&M)
Date of Decision: July 24, 2019

Ibrahim and others Appellants(s)
Versus

Sakir and others Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Barjinder Singh, Advocate for
Mr. Arjun Atri, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent no.3.

LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 12.03.2015, passed by learned Motor Accidents Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal).

Appellants-claimants filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Reshmi. The claimants are the husband and six minor children of the deceased. Learned Tribunal on considering the evidence on record concluded that Reshmi died due to the injuries received by her in the motor vehicle accident, which took place on 25.10.2014, due to the rash and negligent driving of the offending tractor bearing registration No. HR-27-E-1729 by its driver Sakir-respondent no.1. The deceased Reshmi was accepted to be a housewife. Her

FAO No. 6486 of 2015 (O&M) . -2-

income was assessed as Rs.5,500/- per month with reference to the minimum wages of an unskilled labourer in the State of Haryana at the relevant time. Learned Tribunal awarded a sum of Rs.12,67,200/- to the claimants, which is detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income # 5,550 x 12	66,600/- per annum
2.	Total dependency after applying a multiplier of 17	67,200 x 18 = 11,32,200/-
3.	Loss of consortium to claimant no.1	Rs.10,000/-
4.	Loss of love and affection to claimants no.2 to 7	Rs.1,00,000/-
5.	Funeral expenses	25,000/-
	Grand Total	Rs.12,67,200/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants relies upon the judgment of this Court in FAO No.218 of 2014 titled as *United India Insurance Co. Ltd. Vs. Sube Singh and others*, decided on 15.01.2014 to submit that notional income of the deceased should be at least 10,000/- per month. It is, however, stated that under the conventional heads, the compensation be re-worked as per the judgments of **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680 and Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

FAO No. 6486 of 2015 (O&M) .

-3-

Learned counsel for respondents, however, submits that the impugned award dated 12.03.2015 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Sakir. There is no documentary evidence on record to prove that the deceased was having any independent income. However, even if the deceased is taken to be a house-wife, services rendered by a house-wife cannot be equated with that of a daily wager. The myriad of facets which a house-wife looks after and takes care of do not justify her equivalence to a daily wager. Learned Tribunal has clearly erred in assessing income of the deceased to be Rs.5,550/- per month with reference to the minimum wages earned by an unskilled labourer. Notional income of a house wife in respect of an accident which took place in the year 2011 has been assessed as Rs.7,000/- per month in FAO No.3395 of 2015 titled as *Ved Parkash and others Vs. Ram Sarup and others*, decided on 08.10.2018. In the case of *Sube Singh* (supra), a Co-ordinate Bench has upheld income of a housewife to be Rs.9,000/- per month in respect of an accident which took place in 2012. Accident in the present case took place in October 2014. In this view of the matter, it is considered just and

FAO No. 6486 of 2015 (O&M) .

-4-

appropriate in the facts and circumstances of the case to assess the income of the deceased to be Rs.9,000/- per month instead of Rs.5,550/- per month. Deceased was 28 years old as held by the learned Tribunal on the basis of the postmortem report Ex. PJ. She is thus entitled to future prospects @ 40%. In terms of the judgment of Division Bench in ***Paramjeet Singh and another Vs. Dilbag Singh alias Bagga and others***, FAO No.3310 of 2012, decided on 16.05.2013, no deduction has to be effected. Multiplier of 17 was correctly applied by learned Tribunal. Instead of a sum of Rs. 25,000/- awarded by the learned Tribunal on account of funeral expenses, appellants are entitled to Rs.15,000/- on this count besides a sum of Rs.15,000/- on account of loss of estate. Appellant no.1, however, is entitled to a sum of Rs.40,000/- instead of Rs.10,000/- awarded by the learned Tribunal on account of loss of consortium. Instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal for loss of love and affection, appellants no.2 to 7 are entitled to a sum of Rs.40,000/- on account of loss of parental consortium, in terms of the judgment of Hon'ble Supreme Court in ***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 2018, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others.

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	9,000 p.m. i.e. ₹1,08,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,08,000 + (1,08,000 x 40%) = 1,51,200
3.	Total dependency after applying a multiplier of 17	(1,51,200 x 17) = 25,70,400/-
4.	Funeral expenses	15,000
5.	Loss of estate	15,000/-
6.	Loss of consortium to appellant no.1	40,000/-
7.	Loss of parental consortium to appellants no.2 to 7	40,000/-
	Grand Total	26,80,400/-

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.

July 24, 2019
Sunil

(LISA GILL)
JUDGE

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