

FAO No. 8296 of 2014

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

FAO No. 8296 of 2014

Date of Decision: May 14, 2019

Sunita and another

..... Appellants(s)

Versus

Pardeep and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Govind Rana, Advocate for
Mr. Harkesh Manuja, Advocate
for the appellants.

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

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 10.02.2014, passed by learned Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal).

Appellants alongwith respondents no.4 and 5 - claimants who are the widow, minor child and parents of the deceased Rajbir, filed a petition under Section 166 read with Section 140 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Rajbir due to the injuries suffered by him in the motor vehicle accident, which took place on

02.08.2011. It is pleaded that the accident in question took place due to rash and negligent driving of the offending motorcycle bearing registration No. DL-8S-AG-2831, by its driver Pardeep-respondent no.1.

Learned Tribunal on considering the evidence on record concluded, that the accident in question indeed took place on 02.08.2011 due to the rash and negligent driving of the offending motorcycle bearing registration No. DL-8S-AG-2831, by its driver Pardeep-respondent no.1. This finding of the learned Tribunal has attained finality. Learned Tribunal while assessing age of the deceased to be 35 years at the time of the accident assessed income of the deceased to be Rs.5,144/- per month and awarded a sum of Rs.7,70,736/- as compensation, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	5,144/-
2.	Income after deducting 1/4 th as personal living expenses of the deceased	5,144 - 1/4 th = 3,858/-
3.	Dependency after applying multiplier of 16	3,858 x 12 x 16 = 7,40,736/-
4.	Funeral expenses	10,000/-
5.	Loss of estate	10,000/-
6.	Loss of consortium	10,000/-
7.	Total	7,70,736/-

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

Learned counsel for the appellants while not disputing the income of the deceased as assessed by the learned Tribunal, submits that

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increment on account of future prospects should be afforded. It is fairly stated that compensation under the conventional heads may, however, be re-worked in terms of the judgment of Hon'ble Supreme Court in **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. 2018(4) RCR Civil 333.**

Learned counsel for the respondent-insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Learned counsel for the insurance company additionally submits that income of the deceased has already been taken on the higher side, therefore, no ground is made out for enhancement. Dismissal of this appeal is prayed for.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute regarding death of Rajbir in the motor vehicle accident, which took place on 02.08.2011, due to the rash and negligent driving of the offending motorcycle bearing registration No. DL-8S-AG-2831 by its driver Pardeep-respondent no.1. There is further no dispute regarding age of the deceased to be 35 years of age at the time of accident, as his date of birth was 13.10.1976. Learned counsel for the appellants has not raised any challenge to the income of the deceased as assessed by the learned Tribunal i.e. Rs.5,144/- per month, on the basis of the documents on record, which prove that deceased was working as a

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helper with M/s.Roulunds Braking (India) Pvt. Ltd. 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 towards future prospects has to be afforded. Deduction of 1/4th was correctly applied by learned Tribunal. Keeping in view the number of dependents, multiplier of 16 was also correctly applied by learned Tribunal. Appellants-claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.10,000/- awarded by the learned Tribunal towards funeral expenses and loss of estate. Instead of a sum of Rs.10,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to Rs.40,000/-. Appellant no.2 – minor child, is entitled to a sum of Rs.40,000/- towards loss of parental consortium and respondents no.4 and 5 together are entitled to a sum of Rs.40,000/- towards loss of filial 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 2016, titled ***Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others.***

Appellants alongwith respondents no.4 and 5 - claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income 5,144 x 12	61,728/- per annum
2.	Income after deducting 1/4 th as personal living expenses	61,728 - 15432 = 46,296/-
3.	Income after addition of 40% on account of future prospects	46296+18,518 = 64,814/-

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4.	Compensation after applying multiplier of 16	64,814 x 16 = 10,37,024/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2	40,000/-
9.	Loss of filial consortium to respondents no.4 and 5	40,000/-
	Total	11,87,024/-

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 at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

May 14, 2019.
Sunil

(LISA GILL)
JUDGE

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