

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

**FAO No. 6705 of 2015(O&M)**

**Date of Decision: July 25 , 2019.**

Raj Muni and others

..... APPELLANT (s)

**Versus**

Ajaib Singh and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Surinder Sharma, Advocate  
for the appellants.

Ms. Samrit Gill, Advocate for  
Mr. Sandeep Arora, Advocate  
for respondent No.1.

Mr. Sudhir Paruthi, Advocate  
for respondent No.2.

Mr. Sukhdarshan Singh, Advocate  
for respondent No.3 – Insurance company

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**LISA GILL, J.**

CM No.20788-CII of 2015

There is a delay of 617 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 appellants 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 an affidavit of the applicant as well as arguments addressed, delay of 617 days in

filing of the appeal is condoned. However, the appellants shall not be entitled to interest for the said period in case of any enhancement of compensation.

Application is, accordingly, disposed of.

**FAO No.6705 of 2015**

Notice of motion.

Ms. Samrit Gill, Advocate for Mr. Sandeep Arora, Advocate, Mr. Sudhir Paruthi, Advocate and Mr. Sukhdarshan Singh, Advocate accept notice on behalf of respondents No.1, 2 and 3, respectively.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Jalandhar (for short, the 'Tribunal') vide impugned award dated 03.10.2013 on account of death of Jullan Parshad 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 Jullan Parshad, who lost his life in a motor vehicle accident which took place on 23.01.2012. FIR No.6 dated 23.01.2012 (Ex.P1) under Sections 279/304A/427 IPC was registered against respondent No.1 on the statement of PW1 Raj Muni.

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 bus bearing registration No.PB-08-AZ-9628 by respondent No.1-Ajaib Singh.

Learned Tribunal while assessing income of the deceased to be ₹5,000/- per month, awarded a total amount of ₹5,20,000/- to the claimants.

Deceased was held to be 55 years old at the time of the accident. Deduction to the

extent of 1/4<sup>th</sup> was effected. Multiplier of 11 was applied. ₹10,000/- each was awarded on account of loss of estate and loss of consortium, besides, ₹5,000/- towards funeral expenses. It is held by the learned Tribunal that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident. Therefore, the Insurance company was afforded the right to recover the awarded amount from the owner.

Aggrieved from the quantum of compensation, claimants have preferred this appeal for enhancement thereof.

Learned counsel for the appellants, while accepting income of the deceased as assessed by the learned Tribunal i.e., ₹5,000/- per month, submits that increment on account of future prospects should be afforded. It is further submitted that meagre amount has been awarded under the conventional heads. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for the respondents submit that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Learned counsel for respondents No.1 and 2 submit that FAO No.1354 of 2015 has been filed by the owner of the offending vehicle challenging the grant of recovery rights to the Insurance company. The present appeal, it is submitted, be decided without prejudice to their rights in the said appeal. 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 Jullan Parshad in a motor

vehicle accident which took place on 23.01.2012 due to the rash and negligent driving of the offending vehicle bearing registration No. PB-08-AZ-9628 by respondent No.1-Ajaib Singh.

Deceased-Jullan was admittedly 55 years old at the time of the accident. Income of the deceased is accepted to be ₹5,000/- per month, as assessed by the learned Tribunal. However, claimants are entitled to addition in income at the rate of 10% 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 to the extent of 1/4<sup>th</sup> towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 11 has also been rightly applied. ₹15,000/- each is awarded to the claimants towards funeral expenses and loss of estate instead of ₹10,000/- and ₹5,000/-, respectively. Instead of ₹10,000/-, appellant No.1-widow is entitled to ₹40,000/- for loss of consortium and minor children of the deceased i.e., appellants No.2 to 6, are held entitled to ₹40,000/- for loss of parental consortium in terms of the judgments of the 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 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

Appellants 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                | 5,000 p.m.<br>i.e. ₹60,000/- per annum |

|             |                                                                               |                                          |
|-------------|-------------------------------------------------------------------------------|------------------------------------------|
| 2.          | Total income after addition at the rate of 10% on account of future prospects | $60,000 + (60,000 \times 10\%) = 66,000$ |
| 3.          | Net income deduction of 1/4 <sup>th</sup> on account of personal expenses     | $66,000 - (66,000 \times 1/4) = 49,500$  |
| 4.          | Total dependancy after applying a multiplier of 11                            | $(49,500 \times 11) = 5,44,500$          |
| 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                                   |
| Grand Total |                                                                               | ₹6,54,500/-                              |

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the entire amount at the rate of 7.5% per annum, instead of 6% per annum, 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 this appeal. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

The enhanced amount of compensation shall be paid by the Insurance company. Needless to say, the right to recover the amount shall be subject to the decision of FAO No.1354 of 2014, which is pending.

Appeal is accordingly disposed of.

( LISA GILL )  
JUDGE

July 25 , 2019.  
'mohinder/om'

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