

FAO No. 5688 of 2016 (O&M)

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

FAO No. 5688 of 2016 (O&M)

Date of Decision: November 25, 2019

Satya Devi and another

..... Appellants(s)

Versus

Sandeep and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Diwan S. Adlakha, Advocate
for the appellants.

Service upon respondent no.1 dispensed with
vide order dated 28.05.2019.

Mr. Om Pal Sharma, Advocate
for respondent no.2.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 21.05.2016, passed by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal).

Claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Goldy @ Monu, due to the injuries suffered by him in the motor vehicle accident, which took place on 28.11.2013. Deceased was claimed to be 21 years old and a driver by vocation, thereby earning Rs.8,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Goldy @ Monu lost his life due to the injuries received by him in the accident in question, which took place on 28.11.2013, due to the rash and negligent driving of the offending motorcycle bearing registration No.HR-02-S-1959, by its driver Sandeep-respondent no.1. Learned Tribunal while accepting the deceased to be a driver with Asian College of Education, Sarsawa, held his income to be Rs.6,000/- per month on the basis of the evidence produced on record. Reference was made to the evidence of PW3 Neeraj Garg, Accountant of Asian College of Education, Sarsawa, District Saharanpur. The salary certificates were duly proved on record. Learned Tribunal awarded a sum of Rs.5,54,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	6,000/- per month
2.	Income after deducting 1/2 as personal living expenses of the deceased	6,000/- minus 3,000/- = 3,000/-
3.	Dependency after applying multiplier of 14	3,000 x 12 x 14 = 5,04,000/-
4.	Loss of love and affection and funeral expenses and last rites	50,000/-
	Total	Rs.5,54,000/-

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

Learned counsel for the appellants submits that increment towards future prospects has not been afforded by the learned Tribunal.

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Multiplier has been wrongly applied and the consolidated amount under the conventional heads has been wrongly afforded. It is thus prayed that compensation be enhanced.

Learned counsel for the 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. Dismissal of this 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 Goldy @ Monu in the motor vehicle accident, which took place on 28.11.2013, due to the rash and negligent driving of the offending motorcycle bearing registration No. HR-02-S-1959, by its driver Sandeep - respondent no.1. There is also no dispute regarding the income of the deceased to be Rs.6,000/- per month. Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680***, 40% increment has to be afforded on account of future prospects. Deduction of 1/2 was correctly effected by learned Tribunal. Learned Tribunal has, however, erred in applying the multiplier of 14. The matter regarding application of multiplier while assessing the compensation is no longer *res integra*. It has been held by the Hon'ble Supreme Court in **Munna Lal Jain Vs. Vipin Kumar Sharma, (2015) 6 SCC 347** that the multiplier is to be applied as per the age of the deceased. Therefore, multiplier of 18 has to be

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applied as the deceased was admittedly 21 years old at the time of the accident. However, instead of Rs.50,000/- awarded by the learned Tribunal towards loss of love and affection, funeral expenses etc., claimants are entitled to a sum of Rs.15,000/- on account of funeral expenses besides a sum of Rs.15,000/- on account of loss of estate. Appellants are also entitled to a sum of Rs.40,000/- on account of loss of filial consortium. Reference in this regard can gainfully be made to the judgment 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-2110-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

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

Sr. No.	Heads	Calculations
1.	Income	6,000 x 12 = 72,000/- per annum
2.	Income after deducting 1/2 as personal living expenses of the deceased	72,000 - (72,000 x 1/2) = 36,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	36,000 + 14,400 (36,000 x 40%) = 50,400/-
4.	Dependency after applying multiplier of 18	50,400 x 18 = 9,07,200/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of filial consortium to appellants	40,000/-
	Total	9,77,200/-

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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.

November 25, 2019.

Sunil

**(LISA GILL)
JUDGE**

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