

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

**F.A.O. No. 7086 of 2015 (O&M)
Date of Decision: 15.11.2019**

Jagiro Devi and another

.....Appellants.

Versus

Likhama Ram and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

None for respondent no.1.

Service upon respondent no.2, dispensed with vide order dated
12.05.2016.

Ms. Madhu Sharma, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

Appellant-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala (for short 'tribunal'), vide impugned award dated 17.08.2015, on account of death of Joginder Singh.

Appellants-claimants are the widow and son of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Joginder Singh (deceased) along with his brother Jagdish Singh on the intervening night of 17/18.09.2012, were going from village Mehmodpur towards Thol on their motorcycle. The motorcycle was being driven by the brother of the

deceased. At about 12.15.a.m., when they reached in the area of Police Station Naggal, Joginder Singh (deceased) asked his brother to stop the motorcycle for urination. As Joginder Singh (deceased) was going towards the motorcycle after urination, a tanker bearing registration no. GJ-12-Z-3654 being driven by respondent no.1-Likhama Ram, in a rash and negligent manner suddenly came from Ismailabad side and struck against Joginder Singh. As a result thereof, Joginder Singh, received head injuries and died at the spot. FIR was registered against respondent no.1, in this respect. Compensation was thus claimed.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Likhama Ram. Said finding of the learned tribunal has attained finality.

Learned tribunal while holding the deceased to be 47 years old, assessed his income as ₹5500/- per month and awarded a total sum of ₹6,97,000/-, which is detailed as under:-

1.	Total income of deceased	₹5500/- p.m.
2.	Deduction	1/ 3 rd
3.	Multiplier	13
4.	Loss of dependency	₹5,72,000/-
5.	Loss of love and affection	₹50,000/-
6.	Loss of consortium	₹50,000/-
7.	Last rites ceremonies	₹25,000/-
	Total	₹6,97,000/-

Aggrieved therefrom, the present appeal has been filed by the appellants-claimants.

Learned counsel for the appellants vehemently argues that

increment on account of future prospects should be afforded in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009** and compensation under the conventional heads be enhanced as well. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

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 perused the file and heard learned counsel for the parties.

There is no dispute regarding death of Joginder Singh, in a motor vehicle accident which took place on the intervening night of 17/18.09.2012 due to the rash and negligent driving of the offending tanker bearing registration No.GJ-12-Z-3654 by respondent No.1-Likhama Ram. There is no dispute regarding the income of the deceased. Thus, income of the deceased as assessed by the learned tribunal i.e., ₹5500/-, is upheld.

As the deceased was admittedly about 47 years old at the time of accident, increase in income at the rate of 25% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case (Supra)**. Deduction of 1/3rd is correctly applied by the learned tribunal. Multiplier of 13 has also been correctly applied by the learned tribunal. Instead of ₹25,000/- awarded towards last rites ceremonies, appellants-claimants are entitled to a sum of ₹15,000/- each for funeral expenses and loss of estate. Appellant no.1 is

entitled to a sum of ₹40,000/- instead of ₹50,000/- towards loss of consortium. Claimants are not entitled to a sum of ₹50,000/- towards love and affection. Appellant no.2, is entitled to a sum of ₹40,000/- towards loss of parental consortium in terms of the judgement 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 reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹5500/- p.m.
2.	Loss of income after addition at the rate of 25% on account of future prospects	₹5500 + (5500 x 25%) = ₹6875/-
3.	Deduction of 1/3rd on account of personal expenses	₹6875 – (6875x 1/3) = ₹4583/-
4.	Loss of dependency after applying a multiplier of 13	(₹4583 x12 x 13) = ₹ 7,14,948/-
5.	Loss of estate	₹15,000/-
6.	Funeral expenses	₹15,000/-
7.	Consortium to widow of the deceased	₹40,000/-
8.	Parental consortium to appellant no.2	₹40,000/-
	Total	₹8,24,948/-

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 of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement as determined by the

learned Tribunal shall remain the same.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

15.11.2019
s.khan

[LISA GILL]
Judge

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