

FAO No. 6767 of 2016

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

FAO No. 6767 of 2016

Date of Decision: April 22, 2019

Lakhwinder Kaur and others

..... Appellants(s)

Versus

Major Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Sanjeev Mehta, Advocate for
Mr. P.S. Bhinder, Advocate
for respondent nos.1 & 2.

Mr. M.B. Jain, 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 05.04.2016, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal) on account of death of Karma Ram.

The claimants who are widow, three children and aged mother of the deceased, preferred a petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act) seeking compensation on account of death of Karma Ram. Learned Tribunal on considering the evidence on record concluded that Karma Ram died due to injuries received by him in the motor vehicle accident, which took place on

22.07.2015, due to the rash and negligent driving of the offending car bearing registration No. PB-11BQ-5756, by its driver Major Singh-respondent no.1. Learned Tribunal while assessing income of the deceased to be Rs.8,000/- per month, awarded a sum of Rs.12,33,000/- as compensation to the appellants. The same is detailed as under:-

Sr. No.	Heads	Calculations
1.	Gross income	8,000/-
2.	Income after deducting 1/4 th as personal living expenses	8,000 - 2,000 = 6,000/-
3.	Compensation after applying multiplier of 14	6,000 x 12 x 14 = 10,08,000/-
4.	Compensation on account of loss of consortium to claimant Lakhwinder Kaur	1,00,000/-
5.	Loss of love and affection	1,00,000/-
6.	Funeral expenses	25,000/-
	Total	12,33,000/-

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 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**.

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Learned counsel for the respondents, however, refute 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.

There is no dispute regarding death of Karma Ram aged 45 years in the motor vehicle accident, which took place on 22.07.2015, due to the rash and negligent driving of the offending car bearing registration No. PB-11BQ-5756, by its driver Major Singh-respondent no.1. Deceased was claimed to be working as mason as well as a driver, though, no documentary evidence has been produced by the claimants in this respect. I do not find any infirmity in the assessment of income as Rs.8,000/- per month by the learned Tribunal and the same is accordingly maintained. It is relevant to note at this stage that there is no appeal or cross-objections by the respondent-insurance company. 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***, 25% increment has to be afforded on account of future prospects as the deceased was admittedly 45 years old at the time of accident. Deduction of 1/4th was correctly effected by learned Tribunal, as there are six claimants i.e. the widow, three children, two of them minor and the third a 19 years old daughter besides the aged mother of the deceased. Multiplier of 14

was correctly applied. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.25,000/- awarded by the learned Tribunal on account of funeral expenses of the deceased. Instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to Rs.40,000/-. Appellants no.2 to 4 are entitled to a sum of Rs.40,000/- towards loss of parental consortium and appellant no.5 is entitled to Rs.40,000/- for 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-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Gross income 8,000 x 12	96,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses	96,000 - 24,000 = 72,000/-
3.	Total income after addition at the rate of 25% on account of future prospects	72,000+18,000 (72,000 x 25%) = 90,000/-
4.	Compensation after applying multiplier of 14	90,000 x 14 = 12,60,000/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellants no.2 to 4	40,000/-
9.	Loss of filial consortium to appellant no.5	40,000/-
	Total	14,10,000/-

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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 entire 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.

April 22, 2019.

Sunil

**(LISA GILL)
JUDGE**

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