

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 7271 of 2016 (O&M)
Date of Decision: 16.9.2019

Smt. Sunita alias Geeta and others

---Appellants

versus

Sanjeev Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Mani Ram Verma, Advocate
for the appellants

Mr. Punit Jain, Advocate,
for the insurance company

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Sanjesh Kumar alias Sanjay in a motor vehicular accident that took place on 18.1.2015.

The Motor Accidents Claims Tribunal, Bhiwani (in short “the Tribunal”) awarded Rs.27,74,130/-, detailed hereunder:-

Annual income of the deceased	Rs. 2,40,000/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	Rs. 27,00,000/-
Loss of love and affection, loss of estate and funeral expenses	Rs. 20,000/-
Medical expenses	Rs. 54,130/-

Claimant shall be entitle to increase in income for future prospects @ 40%. Claim application has been filed by the widow, minor

son and parents of deceased. Dharamal, father of deceased did not appear in the witness box to establish that he was dependent upon income of deceased. In the given circumstances, admissible deduction for personal expenses would be $1/3^{\text{rd}}$ as against $1/4^{\text{th}}$ allowed by the Tribunal. However, income of deceased assessed by the Tribunal and multiplier applied are correct and affirmed. In this manner, loss of dependency is calculated at Rs.33,60,000/- [$2,40,000 \times 15 = 36,00,000 + 14,40,000 (40\%) = 50,40,000 - 16,80,000 (1/3)$].

Compensation in respect of medical treatment allowed by the Tribunal is affirmed.

Counsel for the appellants would argue that even if father of deceased is not allowed loss of dependency, he is entitle to compensation of Rs. 40,000/- towards consortium. For this purpose, judgment of Hon'ble the Supreme Court **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333** has been cited. Taking into consideration authoritative enunciation laid down by Constitution Bench of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and three Judge Bench judgment **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, claimants shall be entitle to Rs. 70,000/- under conventional heads,detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 34,84,130/- and the additional amount is Rs. 7,10,000/- (34,30,000-27,74,130), payable with interest @ 7.5% per annum from the date of petition till realization to Nikhil, minor son of deceased, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.9.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No