

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

FAO No. 7274 of 2016 (O&M)

Date of decision : January 23, 2019

Raj Rani and others

.....Appellants

Versus

Gopal Thapa and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. M.S. Longia, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as the 'Tribunal') on account of death of Gurdev Singh vide award dated 17.05.2016.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Gurdev Singh on 05.07.2015 in a motor vehicle accident caused due to driving of the offending vehicle Tipper bearing registration No. PB-12-N-9575 by respondent No.1 in a rash and negligent manner. It was averred that on 05.07.2015 at about 8.00 a.m. when Gurdev Singh alongwith his father-in-law Gurdas Ram was standing at a tea shop at old Bus Stand, Rupnagar, offending vehicle Tipper bearing registration No. PB-12-N-9575 came from the side of Nangal Chowk, took a sudden turn

towards Saw Mill of Satish Kumar. Gurdev Singh tried to save himself but left front side of the tipper struck against him. As a result thereof, he sustained multiple grievous injuries. He was taken to Civil Hospital, Rupnagar where he succumbed to his injuries.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 05.07.2015 due to rash and negligent driving of the offending Tipper bearing registration No. PB-12-N-9575 by respondent No. 1. Learned Tribunal awarded a sum of ₹8,25,000/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹60,000/- per annum. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 15 was applied as the deceased was 40 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹1,00,000/- on account of loss of love and affection besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that the deceased was working as a Supervisor with Mata Naina Devi Mandir/Mata Naina Devi Mandir Dharamshala Trust earning a salary of ₹20,000/- per month, therefore, his income has been wrongly assessed as ₹5,000/- per month. Moreover, increment on account of future prospects in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, has not been awarded. It is submitted that multiplier of 15 has been correctly applied and

the appellants have no objection if compensation under the conventional heads is reworked in terms of the judgments of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra) and **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333**. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 17.05.2016 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Gurdev Singh lost his life in a motor vehicle accident, which took place on 05.07.2015 caused due to the rash and negligent driving of Tipper bearing registration No. PB-12-N-9575 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. The deceased – Gurdev Singh was claimed to be 40 years old at the time of his death, working as a Supervisor with Mata Naina Devi Mandir/Mata Naina Devi Mandir Dharamshala Trust and earning a sum of ₹20,000/- per month. Learned counsel for the appellants is unable to deny that there is no evidence on record regarding employment of Gurdev Singh (deceased) except oral testimony of the claimant - Raj Rani. The salary slip of the deceased or even a certificate from the alleged employer is not on record. However, it is noticed that even the minimum wages of an unskilled

labourer in the State of Punjab at the time of the accident was ₹6,853/- per month. Therefore, it is considered just and expedient to assess the income of the deceased to be ₹6,900/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 25% (₹1725/-) has to be afforded, as the deceased was 40 years old at the time of accident, which takes income of the deceased to ₹8625/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3rd is to be applied as number of dependants is three (3), thereby rendering income of the deceased to be ₹5750/-(8625-2875). Applying a multiplier of 15, dependency of the claimants is, therefore, assessed as ₹10,35,000/- (₹5750x12x15). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited** (supra) appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹11,45,000/- detailed as under:-

Loss of dependency (₹5750x12x15)	₹10,35,000/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹11,45,000/-

The amount of compensation already awarded to the appellants,

needless to say, shall stand deducted from the amount calculated as above.

Appellants shall be entitled to interest at the rate of 7.5% per annum on the amount of compensation from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

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

January 23, 2019
rts

(Lisa Gill)
Judge

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