IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO No. 2327 of 2017(O&M)

Date of Decision: May 22 , 2019.

Subhash and others ...... APPELLANT(s)

Versus

Ram Singh and others ...... RESPONDENT (s)

2. FAO No. 2339 of 2017(O&M).

Sudesh and others ...... APPELLANT(s)

Versus

Ram Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajesh Goyal, Advocate
for the appellants.

Mr. Sanjeev Goyal, Advocate
for respondent No.3 – Insurance Company.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This judgment shall dispose of FAO No.2327 of 2017 (Subhash and others v. Ram Singh and others) and FAO No.2339 of 2017 (Sudesh and others v. Ram Singh and others) as both the appeals arise out of a common award dated 02.05.2016 passed by the learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as, the 'Tribunal'). Both the appeals have been filed for enhancement of compensation awarded by the learned Tribunal on account of death of Dharambir @ Kala and Jonhi.

Brief facts necessary for adjudication of the case are that, two separate petitions (i.e., Petition Nos.99 and 100 of 2013) were filed under Section 166 of the Motor Vehicles Act by the claimants seeking compensation on account of the death of Dharambir @ Kala and Jonhi, respectively, who lost their lives in a motor vehicle accident which took place on 12.01.2013. FIR No.15 dated 12.01.2013 under Sections 279/337/427 and 304A IPC was registered at Police Station Kotwali, District Shamli in respect to the incident.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No.HR58-5746 by respondent No.1-Ram Singh. There is no challenge to this finding of the learned Tribunal.

In Petition No.99 of 2013, learned Tribunal while assessing income of the deceased-Dharambir @ Kala, aged 32 years, to be ₹5,000/- per month with reference to minimum wage of the labourer has awarded a total sum of ₹11,00,000/- to the claimants. Deduction to the extent of 1/4th was effected. Addition of 50% towards future prospects was afforded. Multiplier of 16 was applied. ₹10,000/- was awarded to the claimants towards funeral expenses, besides, another sum of ₹10,000/- to the widow of the deceased on account of loss of consortium.

As regards Petition No.100 of 2013, learned Tribunal assessed income of deceased-Jonhi, aged 27 years, as ₹5,000/- per month as well, with reference to the minimum wage available to a labourer. Addition of 50% towards future prospects was afforded. Deduction to the extent of 50% was effected. Multiplier of 17 was applied. ₹10,000/- was awarded to the claimants towards funeral expenses and transportation. A total sum of ₹7,75,000/- was afforded to the claimants.

Learned counsel for the appellants submits that even if the deceased, in both the cases, are treated to be daily wagers, minimum wage in the State of Haryana at the relevant time was ₹5,341/- per month. It is further submitted that compensation under the conventional heads should be enhanced in terms of the judgments of the 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***. However, it is not disputed that increment on account of future prospects has to be awarded at the rate of 40%, instead of 50%, in terms of the judgment of the Hon'ble Supreme Court in **Pranay Sethi** (supra). It is thus prayed that the total amount of compensation awarded to the appellants in both the appeals be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded to the claimants in both the cases. There is no ground for enhancement of the same. It is submitted that the learned Tribunal has erred in awarding increment of 50% towards future prospects. Dismissal of the appeals is prayed for.

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

There is no dispute regarding death of Dharambir @ Kala and Jonhi in a motor vehicle accident which took place on 12.01.2013 due to the rash and negligent driving of the offending truck bearing registration No.HR58-5746 by respondent No.1-Ram Singh. Neither is there a dispute regarding liability of the Insurance company.

FAO No.2339 of 2017(O&M)

It is not in dispute that deceased-Dharambir @ Kala was 32 years old at the time of his death. Learned counsel for the Insurance company is unable to deny that the minimum wage in the State of Haryana was ₹5,341/- per month as on 12.01.2013 i.e., the date of the accident. Accordingly, income of the deceased is assessed as ₹5,341/- per month in the absence any evidence on record to indicate even the approximate income of the deceased or his vocation or qualifications.

Claimants are held entitled to addition in income at the rate of 40%, instead of 50% on account of future prospects, in terms of the judgment of the Hon'ble Supreme Court in **Pranay Sethi** (supra). One fourth ($1/4^{th}$) deduction towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 16 has been rightly applied as well. Instead of ₹10,000/- towards transportation & funeral expenses, ₹15,000/- each on account of funeral expenses and loss of estate is awarded to the claimants. Instead of ₹10,000/- awarded to the claimant-widow for loss of consortium, she is held entitled to ₹40,000/- on account of loss of spousal consortium. Both the children are entitled to ₹40,000/- towards loss of parental consortium and parents of the deceased are entitled to ₹40,000/- towards 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 No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Claimants in FAO No.2339 of 2017 are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	5,341 p.m. i.e. ₹64,092/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	64,092 + (64,092 **x** 40%) = 89,729
3.	Income after deduction of 1/4th on account of personal expenses	89,729 – (89,729 **x** 1/4) = 67,297
4.	Total dependancy after applying a multiplier of 16	(67,297 **x** 16) = 10,76,752
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to claimant/widow	40,000
8.	Loss of parental consortium to the children	40,000
9.	Loss of filial consortium to the parents	40,000
	Grand Total	₹12,26,752/-

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 at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

FAO No.2327 of 2017(O&M)

Claimants in this case are parents, brother and sisters of the deceased-Johni, who was 27 years old at the time of his death. Brother and sisters of the deceased can not be treated to be dependants upon the deceased. Only parents can be considered as dependants. Learned counsel for the Insurance company is unable to deny that the minimum wage in the State of Haryana was ₹5,341/- per month as on 12.01.2013 i.e., the date of the accident. Accordingly, income of the deceased is assessed as ₹5,341/- per month in the absence any evidence on record to indicate even the approximate income of the deceased or his vocation or qualifications.

Claimants are held entitled to addition in income at the rate of 40%, instead of 50% on account of future prospects, in terms of the judgment of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Deduction to the extent of 50% towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 17 has been rightly applied as well. Instead of ₹10,000/- towards transportation & funeral expenses, ₹15,000/- each on account of funeral expenses and loss of estate is awarded to the claimants. Instead of ₹10,000/- awarded to the claimants for loss of consortium, parents of the deceased are held entitled to ₹40,000/- on account of loss of filial consortium in terms of 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 No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant

Kaur and others).

Claimants-parents are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	5,341 p.m. i.e. ₹64,092/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	64,092 + (64,092 **x** 40%) = 89,729
3.	Income after deduction of 50% on account of personal expenses	89,729 – (89,729 **x** 1/2) = 44,865
4.	Total dependancy after applying a multiplier of 17	(44,865 **x** 17) = 7,62,705
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium to the parents	40,000
	Grand Total	₹8,32,705/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants-parents shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. The said amount shall be apportioned in equal share amongst the parents of the deceased, i.e., appellants No.1 and 2. Manner of disbursement shall remain the same as determined by the learned Tribunal.

(LISA GILL)
JUDGE

May 22 , 2019.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No