

FAO No. 2653 of 2017

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

FAO No. 2653 of 2017

Date of Decision: September 10, 2019

Smt. Reena Devi @ Reena and others

..... Appellants(s)

Versus

Sandeep and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.P. Jangu, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for respondent no.2-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 06.05.2016, passed by learned Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal).

Appellants-claimants who are the widow, two minor children and mother of the deceased Lakhan, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Lakhan due to the injuries suffered by him in the motor vehicle accident, which took place in the intervening night of 26/27.03.2015. Deceased was claimed to be working as a mason, earning Rs.30,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Lakhan lost his life due to the injuries received by him in the accident in question, which took place in the intervening night of 26/27.03.2015 due to the rash and negligent driving of the offending car bearing registration No. HR-34-G-1393, by its driver Sandeep - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.6,000/- per month, awarded a sum of Rs.12,96,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	6,000/- per month
2.	Income after deducting 1/4 th as personal living expenses of the deceased	6000 - 1/4 th = 4,500/- per month
3.	Dependency after applying multiplier of 18	4,500 x 12 x 18 = 9,72,000/-
4.	Loss of consortium	30,000/-
5.	Loss of love and affection	25,000/-
6.	Funeral expenses	25,000/-
7.	Medical bills	2,43,523
	Total	12,95,523/- (rounded off to Rs.12,96,000/-)

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants does not dispute the income of the deceased as assessed by the learned Tribunal but seeks increment towards future prospects. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble

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Supreme Court **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**. It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

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

There is no dispute regarding death of Lakhan in the motor vehicle accident, which took place in the intervening night of 26/27.03.2015, due to the rash and negligent driving of the offending car bearing registration No. HR-34-G-1393, by its driver Sandeep-respondent no.1. No dispute has been raised regarding the age of the deceased i.e. 25 years at the time of the accident or of the income of Rs. 6,000/- per month as assessed by the learned Tribunal.

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**, 40% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. As the deceased was admittedly 25 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Instead of a sum of Rs.25,000/- awarded towards funeral expenses, the appellants are entitled

to a sum of Rs.15,000/- each towards funeral expenses and loss of estate. Instead of a sum of Rs.30,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Instead of a sum of Rs.25,000/- awarded by the learned Tribunal on account of loss of love and affection, appellants no.2 and 3 are entitled to a sum of Rs.40,000/- towards loss of parental consortium. Appellant no.4 is also entitled to a sum of Rs. 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-2011-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income	6,000 x 12 = 72,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	72,000 - 18,000/- (1/4 th) = 54,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	54,000 + 21,600 (54,000 x 40%) = 75,600/-
4.	Dependency after applying multiplier of 18	75,600 x 18 = 13,60,800/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-

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7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 and 3	40,000/-
9.	Loss of filial consortium to appellant no.4	40,000/-
	Total	15,10,800/-

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 enhanced 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.

(LISA GILL)
JUDGE

September 10, 2019.

Sunil Sehgal

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