

FAO No. 3354 of 2017 (O&M)

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

FAO No. 3354 of 2017 (O&M)

Date of Decision: December 16, 2019

Manjeet Kaur and others

..... Appellants(s)

Versus

Hitesh Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sunil Kumar, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with
vide order dated 23.01.2019.

Mr. Vinod Gupta, Advocate and
Mr. Mayank Gupta, Advocate
for respondent no.3.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 19.04.2016, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal').

The appellants-claimants, who are the widow and two minor children of the deceased Surinder Singh, filed a petition under Section 166 & 140 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Surinder Singh, due to the injuries suffered by him in the motor vehicle accident, which took place on 25.01.2015. Deceased was claimed to

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be 32 year old and involved in agricultural work as well dairy farming, thereby earning Rs.15,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Surinder Singh lost his life due to injuries received by him in the accident in question, which took place on 25.01.2015, due to the rash and negligent driving of the offending car bearing registration No. HR-08S-9678, by its driver Hitesh Kumar - respondent no.1. Learned Tribunal accepted Surinder Singh to be 32 years old at the time of accident as per postmortem report Ex.P5. His income was assessed as Rs.8,100/- per month by considering him to be an unskilled labourer. Learned Tribunal awarded a sum of Rs.13,47,800/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	8,100 x 12 = 97,200/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	64,800/-
3.	Dependency after applying multiplier of 16	64,800 x 16 = 10,36,800/-
4.	Loss of consortium to widow	1,00,000/-
5.	Loss of love and affection to children-claimants no.2 & 3	1,00,000 + 1,00,000
6.	Funeral expenses and transportation expenses	11,000/-
	Total	Rs.13,47,800/-

The sole ground raised by learned counsel for the appellants is that increment towards future prospects has not been afforded by the learned Tribunal. No objection or challenge is raised to the income of the deceased

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as assessed by the learned Tribunal. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and ors., 2017(16) SCC 680** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2017(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.

There is no dispute regarding death of Surinder Singh, aged 32 years, in the motor vehicle accident, which took place on 25.01.2015, due to the rash and negligent driving of the offending car bearing registration No. HR-08S-9678, by its driver Hitesh Kumar - respondent no.1. There is also no dispute regarding income of the deceased as assessed by the learned Tribunal i.e. Rs.8,100/- per month, therefore, same is upheld.

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 1/3rd was correctly effected by learned Tribunal. As the deceased was admittedly 32 years old at the time of the accident, multiplier of 16 was correctly applied by learned Tribunal. However, instead of Rs.11,000/- awarded by the learned Tribunal towards funeral and

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transportation expenses, claimants are entitled to a sum of Rs.15,000/- on account of funeral expenses besides a sum of Rs.15,000/- on account of loss of estate. Appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of consortium instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on this count. Appellants no.2 & 3 are not entitled to Rs.1,00,000/- each on account of loss of love and affection. However, appellants no.2 & 3 are entitled to a consolidated sum of Rs.40,000/- on account of loss of parental 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.*** 2017(4) RCR Civil 333, as well as decision dated 14.03.2019 of this Court in FAO-2110-2016, 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	8,100 x 12 = 97,200/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	97,200 - 32,400/- (97,200 x 1/3) = 64,800/-
3.	Total income after addition at the rate of 40% on account of future prospects	64,800 + 25,920 (64,800 x 40%) = 90,720/-
4.	Dependency after applying multiplier of 16	90,720 x 16 = 14,51,520/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-

7.	Loss of spousal consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellants no.2 and 3	40,000/-
	Total	15,61,520/-

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.

December 16, 2019.

Sunil

(LISA GILL)
JUDGE

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