

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

FAO No. 3619 of 2017 (O&M)

Date of decision : April 05, 2019

The New India Assurance Company LimitedAppellant

Versus

Parkash Kaur and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Deepak Suri, Advocate for the appellant.

Ms. Kiranjeet Kaur, Advocate for
Mr. H.S. Jakhal, Advocate for respondents No. 1 to 4.

Mr. Shiv Kumar, Advocate for respondent No. 5.

None for respondent No. 6.

LISA GILL, J.

Present appeal has been filed by The New India Assurance Company Limited seeking reduction of the compensation awarded to the claimants vide award dated 19.01.2017 passed by the learned Motor Accident Claims Tribunal, Fazilka (hereinafter referred to as the 'Tribunal').

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 Gurnam Singh on 04.02.2015 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle canter bearing registration No. PB-03Y-8238 by respondent No.1. FIR No. 24 dated 04.02.2015 under Sections 304A, 427, 279 IPC Police Station Sadar Jalalabad was registered.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Gurnam Singh died in the accident which

took place on 04.02.2015 due to rash and negligent driving of the offending canter bearing registration No. PB-03Y-8238 by respondent No. 1. Learned Tribunal awarded a sum of ₹16,99,200/- to the claimants, which is detailed as hereunder:-

Age of the deceased	45 years
No. of dependants	04
Occupation of the deceased	As per version of claimants, deceased Gurnam Singh was running a shop and was having milch buffaloes, but this fact has not been proved on the file, so he has been considered to be equivalent to labourer.
Income	Rs. 9000/- per month (Rs. 1,08,000/- per year)
30% of (1) above to be added as future prospects	Rs. 1,08,000/- + Rs. 32,400/- = Rs. 1,40,400/-
1/4 th of above amount to be deducted as personal expenses of deceased	Rs. 1,40,400/- minus Rs.35,100/- = Rs.1,05,300/-
Compensation after multiplier of 14 is applied	Rs. 1,05,300/- x 14 = 14,74,200/-
Consortium	Rs. 1,00,000/-
Loss of care, love and affection	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-
Total compensation awarded	Rs. 16,99,200/-

It is informed that no appeal or cross objections have been filed by the claimants in this case.

Learned counsel for the appellant – insurance company submits that there is no dispute regarding income of the deceased assessed as ₹9,000/- per month by the learned Tribunal. However, increment at the rate of 30% on account of loss of future prospects should be reduced to 25% in terms of judgment of Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, as the deceased was admittedly 45 years old at the time of the accident. Furthermore, compensation under the conventional heads is stated to be excessive as well. It is, thus, prayed that compensation awarded

to the claimants be reduced accordingly.

Learned counsel for the respondents submits that there is no scope for any reduction in the awarded amount. Thus, it is prayed that this appeal be dismissed and impugned award dated 19.01.2017 be upheld.

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

There is no dispute that Gurnam Singh lost his life in a motor vehicle accident, which took place on 04.02.2015 caused due to the rash and negligent driving of canter bearing registration No.PB-03Y-8238 driven by respondent No.1. There is no challenge to this finding of the learned Tribunal on this issue.

There is no dispute regarding the age of the deceased to be 45 years at the time of the accident or his income to be ₹9,000/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹9,000/- 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% instead of 30% (₹2250/-) is afforded, as the deceased was 45 years old at the time of accident, which takes income of the deceased to ₹11,250/- 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 1/4th is to be applied keeping in view the number of dependants, thereby rendering income of the deceased to be ₹8437.5/-(11,250-2812.5). Applying a multiplier of 14, dependency of the claimants is assessed as ₹14,17,500/- (₹8437.5x12x14).

The claimants are also entitled to ₹15,000/- each for funeral expenses

(instead of ₹25,000/-) and loss of estate besides the claimant widow is entitled to ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium. Respondents No. 2 to 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium (instead of ₹1,00,000/- on account of loss of care, love and affection). Reference in this regard can gainfully be made to the judgments of the Hon'ble Supreme Court in Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 and other connected matters.

Claimants/respondents No. 1 to 4 are, thus, entitled to total compensation of ₹15,27,500/- instead of ₹16,99,200/- detailed as under:-

Loss of dependency (₹8437.5x12x14)	₹14,17,500/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹15,27,500/-

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 as well as rate of interest shall enure.

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

(Lisa Gill)
Judge

April 05, 2019
rts

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