

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

FAO No. 1494 of 2018 (O&M)

Date of decision : November 14, 2019

Smt. Jarina Khatoon @ Jarina Bibi and anotherAppellants

Versus

Nathu Ram and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Manmohan, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Nuh (hereinafter referred to as the 'Tribunal') on account of death of Matiur Sarkar @ Rehmai vide award dated 26.05.2017.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow and son of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Matiur Sarkar @ Rehmai on 11.01.2016, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Tanker bearing registration No. RJ-19GC-1377, by respondent No.2.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Matiur Sarkar @ Rehmai died in the accident which took place on 11.01.2016 due to rash and negligent driving

of the offending Tanker bearing registration No. RJ-19GC-1377 by respondent No. 2. Learned Tribunal while assessing the income of the deceased to be ₹8,000/- per month awarded a sum of ₹8,29,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 11 was applied. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded 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 there is no dispute regarding income of the deceased assessed as ₹8,000/- per month by the learned Tribunal, however, 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**, increment on account of future prospects should be afforded. It is further submitted that multiplier of 11 has been wrongly applied. 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 26.05.2017 be upheld.

I have heard learned counsel for the appellants as well as respondent No. 3 and have gone through the available file.

There is no dispute that Matiur Sarkar @ Rehmai lost his life due to injuries received by him in a motor vehicle accident, which took place on 11.01.2016 due to the rash and negligent driving of Tanker bearing registration No. RJ-19GC-1377, by respondent No.2. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 42 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹8,000/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹8,000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increment on account of future prospects at the rate of 25% (₹2000/-) is afforded, as the deceased was 42 years old at the time of accident, which takes income of the deceased to ₹10,000/- 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 two (2), thereby rendering income of the deceased to be ₹6667/-(10000-3333). Applying a multiplier of 14 instead of 11, dependency of the claimants is assessed as ₹11,20,056/- (₹6667x12x14). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/-) and loss of estate. The claimant widow is entitled to ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium. In terms of the judgment 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** titled **Shri Ram General Insurance**

Company Limited versus Beant Kaur and others, appellant No. 2 i.e. son of the deceased is entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹12,30,056/- detailed as under:-

Loss of dependency (₹6667 x12x14)	₹11,20,056/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹12,30,056/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount 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.

November 14, 2019

Whether speaking/reasoned :
Whether reportable :

(Lisa Gill)
Judge

Yes/No
Yes/No