

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

FAO No. 1593 of 2018 (O&M)

Date of decision : November 14, 2019

Kirna Devi and others

.....Appellants

Versus

Nanak Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. A.P.S. Mann, Advocate
for the appellants.

Mr. Aman Mittal, Advocate for
Mr. A.S. Sidhu, 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, Hoshiarpur (hereinafter referred to as the 'Tribunal') on account of death of Satish Kumar Minhas vide award dated 06.10.2017.

Brief facts necessary for adjudication of the case are that the appellants/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 Satish Kumar Minhas on 25.01.2009, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Tata-609 bearing registration No. PB-10S-9564, by respondent No.1. The deceased, aged 35 years at the time of the accident was stated to be working as Government teacher on contract basis, earning a salary of ₹4,550/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances, concluded that Satish Kumar Minhas died in the

accident which took place on 25.01.2009 due to rash and negligent driving of the offending Tata-609 bearing registration No. PB-10S-9564 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹4,550/- per month awarded a sum of ₹6,97,400/- with interest at the rate of 6% 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 16 was applied as the deceased was 35 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded besides a sum of ₹15,000/- 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 ₹4,550/- 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 compensation under all the conventional heads be afforded. 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 06.10.2017 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 Satish Kumar Minhas lost his life due to injuries received by him in a motor vehicle accident, which took place on 25.01.2009 due to the rash and negligent driving of Tata-609 bearing registration No. PB-10S-9564, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 35 years old at the time of the accident.

Income of the deceased, as assessed by the learned Tribunal is upheld as ₹4,550/- per month, in view of the specific stand of learned counsel for the appellants. 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 40% (₹1820/-) is afforded, as the deceased was 35 years old at the time of accident, which takes income of the deceased to ₹6,370/- 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 three (3), thereby rendering income of the deceased to be ₹4247/-(6370-2123). Applying a multiplier of 16, dependency of the claimants is assessed as ₹8,15,424/- (₹4247 x12x16). The claimants are also entitled to ₹15,000/- each for funeral expenses 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**, appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹9,25,424/- detailed as under:-

Loss of dependency (₹4247 x12x16)	₹8,15,424/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹9,25,424/-

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% (instead of 6%) per annum on the entire 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.

(Lisa Gill)
Judge

November 14, 2019
rts

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