

FAO No. 4458 of 2017 (O&M)

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

FAO No. 4458 of 2017 (O&M)

Date of Decision: December 18, 2019

Smt. Kusam Lata and others

..... Appellants(s)

Versus

Sukhwinder Singh @ Kala and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashok Kumar Sharma, Advocate
for the appellants.

Service upon respondents no.1 to 4 and 6 dispensed with
vide order dated 16.08.2018.

Mr. Sanjiv Pabbi, Advocate
for respondent no.5-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 03.02.2017, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal').

The appellants-claimants, who are the mother and two sisters of the deceased Dalip Sharma, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Dalip Sharma, due to the injuries suffered by him in the motor vehicle accident, which took place on 29.12.2014.

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Learned Tribunal on considering the evidence on record concluded that Dalip Sharma lost his life due to the injuries received by him in the accident in question, which took place on 29.12.2014, due to the rash and negligent driving of the offending truck bearing registration No. PB-11C-8295, by its driver Sukhwinder Singh @ Kala - respondent no.1. Learned Tribunal accepted Dalip Sharma to be 24 years old at the time of accident as per postmortem report Ex.C7. Deceased was accepted to be in receipt of salary of Rs.13,000/- per month while working as a Computer Hardware-cum-Software Faculty Member with Indo Canadian Information Technologies (ICIT). Learned Tribunal awarded a sum of Rs.16,97,772/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	13,000/- p.m.
2.	Income after deducing 50% as personal expenses of the deceased	6,500/- p.m.
3.	Dependency after applying multiplier of 18	6,500 x 12 x 18 = 14,04,000/-
4.	Medical expenses	2,68,772/-
5.	Funeral expenses	25,000/-
	Total	Rs.16,97,772/-

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

Learned counsel for the appellants submits that meagre compensation has been awarded by the learned Tribunal. Increment towards future prospects etc. has not been awarded by the learned Tribunal. No

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objection or challenge is made to the income of the deceased as assessed by the learned Tribunal. However, 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.

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

There is no dispute regarding death of Dalip Sharma, aged 24 years, in the motor vehicle accident, which took place on 29.12.2014, due to the rash and negligent driving of the offending truck bearing registration No. PB-11C-8295, by its driver Sukhwinder Singh @ Kala - respondent no.1. There is no dispute regarding the fact that Dalip Sharma was working with Indo-Canadian Information Technologies as a Computer Hardware-cum- Software Faculty Member, earning a salary of Rs.13,000/- per month, therefore, same is upheld. However, learned counsel for the appellants is unable to point out any document on record to prove that Dalip Sharma was a regular/permanent employee of the above said establishment. Therefore, in

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terms of the judgment of 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.

Learned Tribunal has applied a deduction of 50% in view of the deceased being a bachelor. However, it is noticed that in the present case the dependents-claimants are the widowed mother and two unmarried younger sisters. The deceased was admittedly the only son/brother and all of them were living together. Keeping in view the judgment of Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77**, the present is a fit case where deduction of 1/3rd should be applied. Multiplier of 18 was correctly applied by learned Tribunal. However, instead of Rs.25,000/- awarded by the learned Tribunal towards funeral 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 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. 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	13,000 x 12 = 1,56,000/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	1,56,000 - 52,000/- (1,56,000 x 1/3) = 1,04,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	1,04,000 + 41,600 (1,04,000 x 40%) = 1,45,600/-
4.	Dependency after applying multiplier of 18	1,45,600 x 18 = 26,20,800/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of spousal consortium to appellant no.1	40,000/-
	Total	Rs.26,90,800/-

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

December 18, 2019.

Sunil

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