

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

FAO No. 1996 of 2018

Date of Decision: July 22 , 2019.

Neera Sharma and others

..... APPELLANT (s)

Versus

Jimmy Sikka and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: None for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3 – Insurance company

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

CM No.7804-CII of 2018

There is a delay of 66 days in filing of the appeal.

For the reasons mentioned in the application, duly supported by affidavit of the applicant, delay of 66 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.1996 of 2018

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal,

Panchkula (for short, the 'Tribunal') vide impugned award dated 25.05.2017 on account of death of Laxmi Kant Sharma in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Laxmi Kant Sharma, who lost his life in a motor vehicle accident which took place on 23.08.2015. FIR No.170 dated 23.08.2015 under Sections 279/304A IPC, Police Station Sector 14, Panchkula was registered against respondent No.1-driver. The deceased, aged 52 years, was claimed to be working as a Sales Manager with M/s A to Z Sanitary and Glass Company, Panchkula, drawing a salary of ₹20,000/- per month. Amount of ₹50,00,000/- as compensation was prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of car bearing registration No. HR-13H-1799 by respondent No.1-Jimmy Sikka. This finding of the learned Tribunal has attained finality.

Learned Tribunal while assessing income of the deceased to be ₹18,000/- per month, awarded a total compensation of ₹16,84,000/- to the claimants. Deceased was held to be 52 years old at the time of his death. Deduction to the extent of 1/3rd was effected. Multiplier of 11 was applied. A consolidated sum of ₹1,00,000/- was awarded on account of loss of love and affection, loss of consortium, funeral expenses etc.

Aggrieved from the quantum of compensation, present appeal has been filed by the claimants.

There is no dispute regarding death of Laxmi Kant Sharma in a

motor vehicle accident which took place on 23.08.2015 due to the rash and negligent driving of the offending car bearing registration No.HR-13H-1799 by respondent No.1-Jimmy Sikka. Neither is there a dispute regarding liability of the Insurance company.

Perusal of the file reveals that income of the deceased was rightly accepted to be ₹18,000/- per month. The claimants pleaded the deceased to be a Sales Manager in A to Z Sanitary and Glass Company, Panchkula. It is relevant to note that PW3 Shantanu Mitra, Manager of the said company produced attendance register and salary slips as Ex.P11 to P28. As per Ex.P27, the deceased received a salary of ₹18,000/- for the month of July 2015. He received salary of ₹13,355/- upto 23.08.2015 i.e., the date of the accident. There is indeed no evidence on record to prove that the deceased was in receipt of any income other than his salary. Deceased was, admittedly, 52 years old at the relevant time, his date of birth being 01.07.1963 as per the Aadhar Card. The ground that the age of the deceased should be accepted to be 58 years on the basis of post-mortem report, is not acceptable in view of the positive evidence in the shape of the Adhar Card wherein the date of birth of the deceased is specifically mentioned. Claimants are, thus, entitled to addition in income at the rate of 10% on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Deduction of 1/3rd has been correctly effected. Multiplier of 11 has also been rightly applied. However, instead of a consolidated sum of ₹1,00,000/- awarded by the learned Tribunal on account of funeral expenses, loss of consortium and loss of love and affection etc., ₹15,000/- each is awarded

towards funeral expenses and loss of estate. Appellant No.1 is held entitled to ₹40,000/- on account of loss of spousal consortium and another sum of ₹40,000/- is awarded to appellants No.2 and 3 on account of loss of parental consortium in terms of the judgments of the Hon'ble Supreme Court in Pranay Sethi (supra) and Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333 as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	18,000 p.m. i.e. ₹2,16,000/- per annum
2.	Total income after addition at the rate of 10% on account of future prospects	2,16,000 + (2,16,000 x 10%) = 2,37,600
3.	Income after deduction of 1/3 rd on account of personal expenses	2,37,600 – (2,37,600 x 1/3) = 1,58,400
4.	Total dependancy after applying a multiplier of 11	(1,58,400 x 11) = 17,42,400
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium	40,000
8.	Loss of spousal consortium	40,000
Grand Total		₹18,52,400/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the entire amount at the rate of 7.5% per annum, instead of 6% per annum, from the date of filing of the petition till realization. Ratio of

apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

July 22 , 2019.
'om'

(LISA GILL)
JUDGE

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