

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 5125 of 2017

Date of Decision: September 09 , 2019.

Banita Yadav and others

..... APPELLANT (s)

Versus

Raja Ram and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashwani Gaur, Advocate
for the appellants.

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

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Gurugram (for short, the 'Tribunal') vide impugned award dated 15.04.2017 on account of death of Karan Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants, who are the widow, minor children and parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Karan Singh, who lost his life in a motor vehicle accident which took place on 13.04.2016. FIR No.136 dated 13.04.2016, under Sections 279/304A IPC, Police Station Pataudi was registered in respect to the incident, on the statement of PW3 Ashok Kumar. It is pleaded that deceased-Karan Singh,

aged 30 years, was working as a Sales Executive in a drug and pharmaceutical agency, earning a salary of ₹14,000/- per month. Compensation to the tune of ₹50 lakhs was thus 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 Eicher truck bearing registration No.HR-73-4830 by respondent No.1- Raja Ram. The deceased was held to be 30 years old and accepted to be working as a Sales Executive in a drug and pharmaceutical agency. Learned Tribunal while assessing income of the deceased to be ₹13,000/- per month, awarded a total amount of ₹23,14,000/- to the claimants. Deduction to the extent of 1/4th was effected. Multiplier of 17 was applied. ₹1,00,000/- was awarded to the minor children towards loss of love, affection, care and guidance. ₹50,000/- was awarded to the parents on account of loss of love and affection, besides, ₹1,00,000/- to the widow towards loss of consortium. A sum of ₹25,000/- was afforded towards funeral expenses.

Learned counsel for the appellants argues that increment on account of future prospects should be afforded, while fairly submitting that compensation under the conventional heads be reworked in terms of the judgments of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333**. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Per contra, learned counsel for respondent No.3-Insurance company

refutes the abovesaid averments and submits that excessive compensation has been awarded by the learned Tribunal under the conventional heads. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Karan Singh in a motor vehicle accident which took place on 13.04.2016 due to the rash and negligent driving of the offending vehicle bearing registration No.HR-73-4830 respondent No.1-Raja Ram. Finding of the learned Tribunal in this regard has attained finality. There is further no dispute regarding income of the deceased to be ₹13,000/- per month as assessed by the learned Tribunal.

It is a matter of record that the deceased was 30 years old at the time of his death. Therefore, increase in income on account of future prospects at the rate of 40% is to be afforded in terms of the judgment of the Hon'ble Supreme in **Pranay Sethi** (supra). Deduction to extent of 1/4th has been correctly effected. Multiplier of 17 has been rightly applied as well. Instead of ₹25,000/- towards funeral expenses, the claimants are entitled to ₹15,000/-, besides, another sum of ₹15,000/- towards loss of estate. Appellant No.1, widow of the deceased, is held entitled to ₹40,000/- instead of ₹1,00,000/-, on account of loss of spousal consortium. Both the minor children are entitled to ₹40,000/- towards loss of parental consortium instead of ₹1,00,000/- and the parents of the deceased are entitled to ₹40,000/- towards loss of parental consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd.** (supra) 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).

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	13,000 per month i.e., 1,56,000 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,56,000 + (1,56,000 x 40%) = 2,18,400
3.	Deduction of 1/4 th on account of personal expenses	2,18,400 – (2,18,400 x 1/4) = 1,63,800
4.	Dependancy after applying a multiplier of 17	(1,63,800 x 17) = 27,84,600
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 and 3	40,000
9.	Loss of filial consortium to appellants No.4 and 5	40,000
Grand Total		₹29,34,600/-

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 on the enhanced amount at the rate of 7.5% 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.

(**LISA GILL**)
JUDGE

September 09 , 2019.
'om'

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