

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

**FAO-2545-2018 (O&M)
Date of Decision : 28.05.2019**

Sarabjeet Kaur and Others

....Appellants

vs.

Mukesh Kumar and Others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Dheeraj Narula, Advocate
for the appellants.

Mr. Anupam Gupta, Senior Advocate with
Mr. Ashok, Advocate-Amicus curiae.

Mr. Lalit Garg, Advocate
for respondent No.3-National Insurance Company.

Mr. Ashwani Talwar, Advocate
for the HDFC Ergo Insurance Co. and
Bajaj General Insurance Company.

Mr. Rajesh K. Sharma, Advocate

AJAY TEWARI, J. (Oral)

This appeal has been filed for enhancement of compensation and for modifying the award dated 09.11.2017 passed by the Tribunal awarding compensation of Rs.10,78,000/- alongwith interest @ 9% p.a. on account of death of Gurmeet Singh in a motor accident.

Since very limited issue has been raised detailed reference to the facts is not required.

Counsel for the appellants has argued that the Tribunal erred

while taking the income @ Rs.6000/- p.m. which is highly inadequate. Counsel for the appellants has further argued that the deceased was working as a driver with Dera Sacha Sauda and getting Rs.12,000/- per month as salary. Though the appellants were not able to prove the fact of employment yet they had placed on record driving license of the deceased. Counsel for the appellants has stated that the driving license was taken on record but the Tribunal erred in taking the appellant as a non-skilled labourer.

I find merit in this argument. Consequently, I hold that the deceased had to be considered as a skilled labourer. In the year 2016 the minimum wages of the skilled labourer in Haryana were Rs.9233.44/- per month. Hence, I take the income as Rs.9235/- per month.

Counsel for the appellants has further argued that as per the judgment of the Supreme Court in ***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018*** the concept of consortium has been expanded after considering ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** and therefore an amount of Rs.40,000/- has to be awarded under the conventional heads towards filial consortium to appellant No.2.

Counsel for the insurance company is not in a position to deny this fact.

Consequently, I award Rs.40,000/- under the conventional heads to the appellant No.2.

Counsel for the appellants has further argued that as per the

judgment of the Supreme Court in Magma General Insurance Company Ltd's case (supra), the interest should be 12% p.a. instead of 9%.

After hearing the arguments of the learned counsel and the learned Amicus Curiae, I do not deem it appropriate to enhance the interest. Consequently, it is held that the enhanced compensation amount would carry interest @ 9% p.a. from the date of filing of the claim petition till the date of realization. Out of the enhanced amount 70% would be the share of the widow and the remaining 30% would go to the share of the mother apart from individual share. No other point has been raised. Rest of the award shall remain unchanged.

Appeal stands disposed of and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

MAY 28, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No