

FAO No. 2559 of 2018

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

FAO No. 2559 of 2018

Date of Decision: November 01, 2019

Sunita and others

..... Appellants(s)

Versus

Satish Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vikrant Singh Cooner, Advocate for
Mr. J.S. Cooner, Advocate
for the appellants.

None for respondents no.1 & 4, despite service.

Mr. Gaurav Grover, Advocate
for respondent no.2(i) to (iv).

Mr. Amrinder Singh Sidhu, Advocate and
Mr. Aman Mittal, Advocate
for respondent no.3-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 16.10.2017, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal).

Claimants who are the widow, two children and aged mother of the deceased Charanjit Singh, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of

Charanjit Singh, due to the injuries suffered by him in the accident, which took place on 02.09.2015. Deceased was claimed to be working as a carpenter, earning Rs.15,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Charanjit Singh lost his life due to the injuries received by him in the accident in question, which took place on 02.09.2015, due to the rash and negligent driving of the offending car bearing registration No. HR-23-B-6565, by its driver Satish Kumar - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.8,500/- per month, awarded a sum of Rs.13,01,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income 8,500 x 12	1,02,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	1,02,000/- minus 25,500/- = 76,500/-
3.	Dependency after applying multiplier of 14	76,500 x 14 = 10,71,000/-
4.	Loss of consortium	1,00,000/-
5.	Loss of love and affection and care and guidance to children and mother	1,00,000/-
6.	Funeral expenses	25,000/-
7.	Loss of estate	5,000/-
	Total	Rs.13,01,000/-

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

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Learned counsel for the appellants does not dispute the income of the deceased as assessed by the learned Tribunal but seeks increment towards future prospects. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **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 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. Learned counsel submits that the minimum wage of an unskilled labourer in the State of Punjab at the time of the accident was Rs.6,935.62/- per month, therefore, income should be reduced. Dismissal of this 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 Charanjit Singh in the motor vehicle accident, which took place on 02.09.2015, due to the rash and negligent driving of the offending car bearing registration No. HR-23-B-6565, by its driver Satish Kumar-respondent no.1. The said finding has attained finality. Learned Tribunal has assessed the income of the deceased as Rs.8,500/- per month while observing that no documentary proof has

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been produced by the claimants to prove that he was a carpenter by profession. While referring to the minimum wage available to an unskilled labourer in the State of Punjab, his income was assessed as Rs.8,500/- per month. Though, learned counsel for the respondents have sought to urge that the minimum wage of an unskilled labourer in the State of Punjab at the time of the accident was Rs.6,935.62/- per month, therefore, the same should be reduced, I do not find any merit in the said argument. Claimant Sunita while deposing as CW1 has specifically stated that her husband was working as a carpenter though her claim that he was earning Rs.15,000/- per month, cannot be accepted in the given factual matrix. At the same time, it is not in dispute that the minimum wage of a skilled labourer in the State of Punjab at the relevant time was Rs.8612.62/- per month. There is no evidence on record which indicates and justifies any reduction in the amount of income as assessed by the learned Tribunal.

A perusal of the photocopy of the record, which has been requisitioned, reveals that the brother of the deceased namely Balwinder Kumar, who has testified as CW-2, on whose statement FIR No.213 dated 03.09.2015 under Sections 279, 304-A IPC was registered, is also a carpenter (Raj Mistri). It is apparent that the deceased along with his brother and one Phool Chand were all coming back after work. It is so mentioned in the said FIR. Though, there is no evidence on record to prove the deceased to be earning a sum of Rs.15,000/- per month, there is no evidence on record to discard the plea of the claimants that the deceased was

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working as a carpenter. Accordingly his income has to be assessed keeping in view at least the minimum wages of a skilled labourer in the State of Punjab at the relevant time i.e. Rs.8,612/- per month.

Keeping in view the judgment of the Hon'ble supreme Court in *National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680*, 25% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. As the deceased was admittedly 43 years old at the time of the accident, multiplier of 14 was correctly applied by learned Tribunal. However, instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 and 3 are entitled to a sum of Rs.40,000/- towards loss of parental consortium and respondent no.4, who was arrayed as 4th claimant before the learned Tribunal, is also entitled to a sum of Rs.40,000/- towards loss of filial consortium and not to Rs.1,00,000/- awarded by the learned Tribunal on account of loss of love and affection and care and guidance to children and mother. 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. 2018(4) RCR Civil 333*, as well as decision dated 14.03.2019 of this Court in FAO-2011-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others*. The appellants are also entitled to a sum of Rs.15,000/- each towards funeral

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expenses and loss of estate (the total amount as awarded by the learned Tribunal on both these heads remains the same i.e. Rs.30,000/-).

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

Sr. No.	Heads	Calculations
1.	Income	8,612 x 12 = 1,03,344/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	1,03,344 - 25,836/- (1/4 th) = 77,508/-
3.	Total income after addition at the rate of 25% on account of future prospects	77,508 + 19,377 (77,508 x 25%) = 96,885/-
4.	Dependency after applying multiplier of 14	96,885 x 14 = 13,56,390/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 and 3	40,000/-
9.	Loss of filial consortium to respondent/claimant no.4	40,000/-
	Total	15,06,390/-

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 entire 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.

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Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

November 01, 2019.

Sunil

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