

FAO No. 2728 of 2018

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

FAO No. 2728 of 2018

Date of Decision: August 21, 2019

Salochna and another

..... Appellants(s)

Versus

Swaran Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vikram Bali, Advocate
for the appellants.

None for respondents no.1 & 2.

Mr. Nikhil Chopra, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 17.07.2017, passed by learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal).

Appellants-claimants who are the widow and mother of the deceased Rajesh, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Rajesh due to the injuries suffered by him in the motor vehicle accident, which took place on

29.02.2016. Deceased was claimed to be 28 years old and engaged in selling fruit and fruit juice, thereby earning a sum of Rs.20,000/- per month.

Learned Tribunal on considering the evidence on record concluded that the accident in question indeed took place on 29.02.2016 due to the rash and negligent driving of the offending truck bearing registration No. HP-12-G-8534, by its driver Swaran Singh-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.7,200/- per month with reference to the minimum wages available to an unskilled labourer in the State of Punjab at the time of the accident, awarded a sum of Rs.9,96,600/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income 7,200 x 12	86,400/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	57,600/- per annum
3.	Dependency after applying multiplier of 16	57,600 x 16 = 9,21,600/-
4.	Funeral expenses	25,000/-
5.	Loss of consortium to appellant no.1	50,000/-
	Total	9,96,000/-

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

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 and application of the correct multiplier. It is fairly

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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. 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 Rajesh in the motor vehicle accident, which took place on 29.02.2016, due to the rash and negligent driving of the offending truck bearing registration No. HP-12-G-8534, by its driver Swaran Singh-respondent no.1. It is a matter of record that the deceased was 28 years old at the time of the accident and there is no dispute regarding income of the deceased to be Rs.7,200/- per month as assessed by the learned Tribunal. 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**, 40% increment has to be afforded on account of future prospects. Deduction of 1/3rd was correctly effected by learned Tribunal. Multiplier of 16 has indeed been wrongly

applied by the learned Tribunal. Multiplier of 17 has to be applied as the deceased was 28 years old at the time of the accident. Instead of a sum of Rs.25,000/- awarded towards funeral expenses, the appellants are entitled to a sum of Rs.15,000/- each towards funeral expenses and loss of estate. Appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium (instead of Rs.50,000/- as awarded by the learned Tribunal). Appellant no.2 is also entitled to a sum of Rs.40,000/- towards 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.* 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.*

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

Sr. No.	Heads	Calculations
1.	Income	7,200 x 12 = 86,400/- per annum
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	86,400 - 1/3 rd = 57,600/-
3.	Total income after addition at the rate of 40% on account of future prospects	57,600 + 23,040 (57,600 x 40%) = 80,640/-
4.	Dependency after applying multiplier of 17	13,70,880/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-

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7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2	40,000/-
	Total	14,80,880/-

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.

August 21, 2019.
Sunil

(LISA GILL)
JUDGE

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