

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

FAO No. 5767 of 2017

Date of Decision: March 08 , 2019.

Sunny and others

..... APPELLANT (s)

Versus

Shamsher Singh and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Abhinav Sood, Advocate for
Mr. Navmohit Singh, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.2 – 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, Narnaul (for short, the 'Tribunal') vide impugned award dated 20.03.2017 on account of death of Sanjay 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 Sanjay, who lost his life in a motor vehicle accident which took place on 26.09.2015. FIR (Ex.P1) was lodged against respondent No.1 at the instance of one Rakesh Kumar at Police Station Narnaul.

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-36Q/7837 by respondent No.1-Shamsher Singh. This finding of the learned Tribunal has attained finality.

Learned Tribunal while assessing income of Sanjay (deceased) as ₹6,000/- per month, awarded a total sum of ₹9,93,000/- to the claimants. He was held to be 31 years and six months old at the time of the accident. Deduction to the extent of 1/3rd on account of personal expenses was effected. Multiplier of 16 was applied. ₹1,00,000/- was awarded to the claimant-widow on account of loss of consortium. ₹50,000/- each was awarded to the minor children i.e., appellants No.2 and 3 on account of loss of love and affection. ₹25,000/- was awarded to the claimants towards funeral expenses. Aggrieved of the quantum of compensation, the present appeal has been filed by the claimants.

Learned counsel for the appellants does not challenge income of the deceased as assessed by the learned Tribunal. It is however submitted that increment on account of future prospects should be afforded. It is further submitted that the appellants have no objection in case the compensation under the conventional heads is 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 reworked accordingly.

Learned counsel for respondent No.3-Insurance company while not disputing increment to be afforded towards future prospects, submits that the

compensation awarded under the conventional heads is excessive. 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 Sanjay in a motor vehicle accident which took place on 26.09.2015 due to the rash and negligent driving of the offending car bearing registration No.HR-36Q/7837 by respondent No.1- Shamsheer Singh. Neither is there a dispute regarding liability of the Insurance company. Deceased-Sanjay was 31 years old at the time of the accident. Appellants have not raised any challenge to the income of the deceased as assessed by the learned Tribunal i.e., ₹6,000/- per month.

However, claimants are entitled to addition in income at the rate of 40% on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Deduction of 1/3rd towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 16 has been rightly applied as well. Instead of ₹25,000/- on account of funeral expenses and transportation, ₹15,000/- each on account of funeral expenses and loss of estate is awarded to the claimants. ₹40,000/- each is awarded to the claimants on account of loss of consortium (spousal and parental) in terms of **Magma General Insurance Co. Ltd.** (supra) instead of ₹1,00,000/- on account of loss of consortium to claimant-widow and ₹50,000/- each to appellants No.2 and 3 on account of loss of love and affection.

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	6,000 p.m. i.e. 72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	$72,000 + (72,000 \times 40\%) = 1,00,800$
3.	Net income after 1/3 rd deduction on account of personal expenses	$1,00,800 - (1,00,800 \times 1/3) = 67,200$
4.	Total dependancy after applying a multiplier of 16	$(67,200 \times 16) = 10,75,200$
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal and parental consortium	$40,000 \times 3 = 1,20,000$
Grand Total		₹12,25,200/-

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 as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

March 08 , 2019.
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(LISA GILL)
JUDGE

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