

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

FAO No. 3491 of 2018 (O&M)

Date of decision : August 20, 2019

Sundri and others

.....Appellants

Versus

Sukhwinder Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Pardeep Singh Poonia, Advocate for
Mr. Gaurav Gaur, Advocate
for the appellants.

None for respondents No. 1 and 2.

Mr. Vishal Sharma, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as the 'Tribunal') on account of death of Rajinder Parshad Semwal vide award dated 02.01.2017.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow and two children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rajinder Parshad Semwal on 22.10.2015, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Car bearing registration No. HR-49-D-3417, by respondent No.1. The deceased was claimed to be working as Principal in Saraswati Vidya Mandir, Barotiwala apart from working as a part time Supervisor with M/s Kundlas Enterprises as well as performing his duties as a Pujari

(Priest) at Shiv Mandir, Village Suraj Majra Labana.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Rajinder Parshad Semwal died in the accident which took place on 22.10.2015 due to rash and negligent driving of the offending Car bearing registration No. HR-49-D-3417 by respondent No. 1. Learned Tribunal awarded a sum of ₹14,89,220/- while assessing income of the deceased to be ₹15,500/- per month i.e. ₹9,100/- per month drawn by him as salary from Sarswati Vidya Mandir School and a sum of ₹6,400/- per month drawn as salary while working as a part time supervisor with M/s Kundlas Enterprises. Reference was made to the specific documentary evidence produced on record duly proved by the concerned witnesses. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 11 was applied as the deceased was 51 years old at that time. Additionally, a sum of ₹1,25,000/- was awarded under conventional heads i.e. loss of love and affection, consortium, funeral and last rights expenses etc.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants does not dispute income of the deceased, as assessed by the learned Tribunal but prays that increment on account of future prospects be afforded. It is further submitted that compensation under the conventional heads be reworked in terms of judgments of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009** and **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333**. It is, thus, prayed that

compensation awarded to the claimants be enhanced accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 02.01.2017 be upheld.

Heard learned counsel for the appellants and respondent No. 3.

There is no dispute that Rajinder Parshad Semwal lost his life in a motor vehicle accident, which took place on 22.10.2015 caused due to the rash and negligent driving of Car bearing registration No. HR-49-D-3417, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 51 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹15,500/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹15,500/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 15% (₹2325/-) is afforded, as the deceased was 51 years old at the time of accident, which takes income of the deceased to ₹17,825/- per month having a regular job. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3rd is to be applied as number of dependants is three (3), thereby rendering income of the deceased to be ₹11,883/-(17825-5942).

Applying a multiplier of 11, dependency of the claimants is assessed as ₹15,68,556/- ($₹11883 \times 12 \times 11$). Instead of a lumpsum amount of ₹1,25,000/- awarded under the conventional heads, the claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate. The claimant widow is entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 titled Shri Ram General Insurance Company Limited versus Beant Kaur and others, appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹16,78,556/- detailed as under:-

Loss of dependency ($₹11883 \times 12 \times 11$)	₹15,68,556/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹16,78,556/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the awarded amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

August 20, 2019
rts

(Lisa Gill)
Judge

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