

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

FAO No. 4115 of 2018

Date of decision : March 13, 2019

Smt. Fatma and others

.....Appellants

Versus

Nafish Ahmed and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashish Gupta, Advocate for the appellants.

Mr. M.B. Jain, 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, Mewat (hereinafter referred to as the 'Tribunal') on account of death of Hamida vide award dated 03.05.2017.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Hamida on 19.03.2016 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle motor cycle bearing registration No. HR-28F-4969 by respondent No. 1. It was averred that Hamida and Deen Mohd. were standing on Shadipur Turn, Bhadas when Iqbal, Ash Mohd. and his daughter Rasmina came there on motorcycle. Iqbal was driving the motorcycle. He slowed down the same after seeing Hamida and Deen Mohd. in order to meet them. In the meantime, motor cycle bearing registration No. HR-28F-4969 driven in a rash and negligent manner came from the side of Bhadas and hit them. As a result thereof, Iqbal, Ash Mohd. and Rasmina fell down and sustained injuries. Hamida died on the spot. The deceased, aged 47 years at the time of the accident was

stated to be earning a sum of ₹15,000/- per month being engaged in agriculture work. Compensation was prayed for.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 19.03.2016 due to rash and negligent driving of the offending motor cycle bearing registration No. HR-28F-4969 by respondent No. 1. Learned Tribunal awarded a sum of ₹12,98,480/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹7,600/- per month with reference to minimum wages for an unskilled labourer in the State of Haryana at the time of accident. The learned Tribunal afforded compensation to the appellants detailed as hereunder:-

a)	Loss of income to the family	₹9,48,480/-
b)	Funeral expenses	₹25,000/-
c)	Loss of Estate	₹25,000/-
d)	Loss of consortium	₹1,00,000/-
e)	Loss of care and guidance for children	₹1,00,000/-
	Total amount of compensation	₹12,98,480/-

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

Sole argument raised by learned counsel for the appellants is that increment on account of future prospects should be afforded in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**. It is further submitted that there is no objection in case compensation under the conventional heads is reworked. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company is unable to deny that increment on account of future prospects has to be afforded though it is submitted that excessive compensation has been afforded under the conventional heads.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Hamida lost his life in a motor vehicle accident, which took place on 19.03.2016 caused due to the rash and negligent driving of motor cycle bearing registration No. HR-28F-4969 driven by respondent No. 1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 47 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹7,600/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹7,600/- 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 25% (₹1900/-) has to be afforded, as the deceased was 47 years old at the time of accident, which takes income of the deceased to ₹9,500/- per month. 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 1/5th is to be applied as number of dependants is seven (7), thereby rendering income of the deceased to be ₹7600/-(9500-1900). Applying a multiplier of 13, dependency of the claimants is, therefore, assessed as ₹11,85,600/- (₹7600x12x13). The claimants are also entitled to ₹15,000/- each (instead

of ₹25,000/- each) for funeral expenses and loss of estate besides the claimant – appellant No. 1 is entitled to ₹40,000/- instead of ₹1,00,000/- on account of loss of consortium. As the deceased is survived by six children, it is considered appropriate to award a consolidated sum of ₹1,00,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹13,55,600/- detailed as under:-

Loss of dependency (₹7600x12x13)	₹11,85,600/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹1,00,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹13,55,600/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization. It is clarified at this stage that the appellants shall not be entitled to any interest on the period of delay of 251 days in filing of the appeal as the delay in this case was specifically condoned on this condition.

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.

(Lisa Gill)
Judge

March 13, 2019
rts

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