

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

FAO No. 7686 of 2017(O&M)

Date of Decision: December 17 , 2019.

Savinder Kaur and others

..... APPELLANT (s)

Versus

Kewal Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kushagra Mahajan, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3 – Insurance company

LISA GILL, J.

CM No.25252-CII of 2017

There is a delay of 232 days in refiling of the appeal.

For the reasons mentioned in the application, duly supported by an affidavit, as well as arguments addressed, delay of 232 days in refiling of the appeal is condoned.

Application is disposed of.

CM No.25253-CII of 2017

There is a delay of 59 days in filing of the appeal.

For the reasons mentioned in the application, duly supported by an

affidavit, as well as arguments addressed, delay of 59 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.7686 of 2017(O&M)

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Amritsar (for short, the 'Tribunal') vide impugned award dated 18.04.2016 on account of death of Rashpal Singh 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 Rashpal Singh, who lost his life in a motor vehicle accident which took place on 24.05.2014. FIR No.99 dated 25.05.2014 under Sections 304A/427 IPC, Police Station Gharinda was registered in respect to the incident. Deceased-Rashpal Singh, aged 43 years, is claimed to be in the business of selling milk and dairy products, besides, doing agricultural work, earning a sum of ₹70,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Rashpal Singh died on account of the injuries received by him in motor vehicle accident in question, which took place due to the rash and negligent driving of tractor-trolley bearing registration No.PB-02-CG-7496 by respondent No.1-Kewal Singh. Learned Tribunal while assessing income of the deceased as ₹5,000/- per month, awarded a total compensation of ₹9,49,000/- to the claimants. Increase in income at the rate of 30% was afforded on account of future prospects. Deduction to the extent of 1/4th was effected. Multiplier of 14

was applied. ₹1,00,000/- was awarded to the claimant-widow on account of loss of consortium. ₹25,000/- was awarded towards funeral expenses, besides, ₹5,000/- on account of loss of estate.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as ₹5,000/- per month, which is even lesser than the wage earned by an unskilled labourer in the State of Punjab at the time of the accident. It is submitted that meagre compensation has been awarded which should be enhanced. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3 refutes the abovesaid averments and submits that adequate compensation has been afforded by the learned Tribunal which does not call for any enhancement. Learned Tribunal has afforded increment at the rate of 30% towards future prospects, which is required to be reduced. Excessive compensation, it is submitted, has been awarded. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file with their assistance.

There is no dispute regarding death of Rashpal Singh in a motor vehicle accident which took place on 24.05.2014 due to the rash and negligent driving of the offending vehicle bearing registration No.PB-02-CG-7496 by respondent No.1-Kewal Singh. Finding of the learned Tribunal in this regard has attained finality.

The claimants have pleaded the deceased-Rashpal Singh to be an agriculturist, besides, running a dairy business. However, learned counsel for the

appellants is unable to dispute that there is no evidence, whatsoever, to indicate either the vocation or exact income of the deceased. At the same time, it is to be noticed that the minimum wage available even to an unskilled labourer in the State of Punjab at the time of the accident i.e., 24.05.2014 was ₹6,467.67/- per month. Accordingly, income of the deceased is assessed as ₹6,500/- per month, instead of ₹5,000/- per month.

Increment towards future prospects has to be afforded at the rate of 25%, instead of 30% in view of the guidelines laid down by the Hon'ble Supreme in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (16) SCC 680**. Deduction to the extent of 1/4th has been correctly effected. Multiplier of 14 has been rightly applied as well. The total amount of ₹30,000/- awarded by the learned Tribunal i.e., ₹25,000/- towards funeral expenses and ₹5,000/- on account of loss of estate, remains the same (₹15,000/- each towards funeral expenses and loss of estate). Appellant No.1 is entitled to a sum of ₹40,000/-, instead of ₹1,00,000/- as awarded by the learned Tribunal, towards loss of spousal consortium. Appellants No.2 and 3, minor children, are entitled to ₹40,000/- towards loss of parental consortium and respondents No.4 and 5 i.e., parents of the deceased are held entitled to ₹40,000/- on account of loss of filial consortium in terms of 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 No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

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	6,500 p.m. i.e., 78,000 p.a.
2.	Total income after addition at the rate of 25% on account of future prospects	$78,000 + (78,000 \times 25\%)$ $= 97,500$
3.	Deduction of 1/4 th on account of personal expenses	$97,500 - (97,500 \times 1/4)$ $= 73,125$
4.	Total dependancy after applying a multiplier of 14	$(73,125 \times 14) = 10,23,750$
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 and 3	40,000
9.	Loss of filial consortium to respondents No.4 and 5	40,000
Grand Total		₹11,73,750/-

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 and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

December 17 , 2019.
'om'

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