

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

FAO No. 7828 of 2017

Date of Decision: January 24 , 2019.

Phulli Devi and others APPELLANT (s)

Versus

Asha Singh @ Bhola Singh and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Pawan Attri, Advocate
for the appellants.

Mr. R.C.Kapoor, Advocate and
Mr. Rahul Pathania, Advocate
for respondents No.3 and 5.

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, Jind (for short, the 'Tribunal') vide impugned award dated 05.07.2017 on account of death of Chela Ram 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 (for short, the 'Act') seeking compensation on account of death of Chela Ram, who lost his life in a motor vehicle accident which took place on 10.04.2016. FIR No.94 dated 10.04.2016 (Ex.P12) was lodged against respondent No.1 at Police Station Chanderiya, District Chitorgarh. Learned Tribunal on consideration of the facts

and evidence on record held that the accident in question took place due to the rash and negligent driving of truck bearing registration No.RJ-13GA/6091 by respondent No.1-Asha Singh @ Bhola Singh. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

Learned Tribunal while assessing income of the deceased to be ₹9,000/- per month taking him to be a casual labourer/cleaner in the truck, awarded a total sum of ₹10,61,000/- as compensation to the claimants vide impugned award dated 05.07.2017. Deduction to the extent of 1/3rd on account of personal expenses was effected. The deceased was aged 46 years at the time of the accident. ₹50,000/- was awarded on account of loss of love and affection. Another sum of ₹50,000/- to the widow/claimant on account of loss of consortium, besides, ₹25,000/- towards funeral expenses was awarded.

Learned counsel for the appellants argues that Chela Ram (deceased) was in fact a second driver of the ill-fated truck. Therefore, his income should be assessed accordingly. Moreover, increment on account of future prospects has not been afforded. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondents No.3 and 5 however prays that the impugned award does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. 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 the death of Chela Ram in a motor

vehicle accident which took place on the intervening of 10.04.2016 due to the rash and negligent driving of the offending truck bearing registration No.RJ-31GA/6091 by respondent No.1-Asha Singh @ Bhola Singh, neither is there a dispute regarding liability of the Insurance company. Appellants have claimed that the ill-fated truck bearing registration No.HR69A/7155 was being driven by respondent No.4-Narender and Chela Ram (deceased) was travelling on the truck being the second driver. However, learned counsel for the appellants is unable to deny that there is indeed no evidence on record to prove that the deceased was a driver. His driving licence has also not been proved on record. Therefore, income of the deceased as assessed by the learned Tribunal to be ₹9,000/- per month is justified and is accordingly upheld.

The deceased was proved to be 46 years old at the time of his death. Increase in income at the rate of 25% on account of loss of future prospects has to be afforded 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**. Deduction of 1/3rd has been rightly effected and multiplier of 13 has been correctly applied as well by the learned Tribunal. The claimants are entitled to ₹15,000/- each on account of funeral expenses (instead of ₹25,000/-) and loss of estate. Instead of ₹50,000/- each awarded as consortium to appellant No.1 and on account of deprivation of love and affection, all the claimants are entitled to a sum of ₹40,000/- each towards loss of consortium (spousal and parental) 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.

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	9,000 p.m. i.e. ₹1,08,000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	1,08,000 + (1,08,000 x 25%) = 1,35,000
3.	Net income after 1/3 rd deduction on account of personal expenses	1,35,000 – (1,35,000 x 1/3) = 90,000
4.	Total dependancy after applying a multiplier of 13	(90,000 x 13) = 11,70,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium @40,000 to appellant No.1	40,000
8.	Loss of parental consortium @40,000 to appellants No.1 & 2	40,000 x 2 = 80,000
Grand Total		₹13,20,000/-

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 entire 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.

January 24 , 2019.
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(LISA GILL)
JUDGE

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