

FAO No. 8059 of 2017

-1-

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

FAO No. 8059 of 2017

Date of Decision: December 04, 2019

Dharam Pal and another

..... Appellants(s)

Versus

Khushi and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Yadav, Advocate
for the appellants.

Mr. Ram Bilas Gupta, Advocate
counsel for respondents no.1 & 2.
None for respondent no.3, despite service.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 10.03.2017, passed by learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal').

The appellants-claimants, who are the parents of the deceased Naveen, filed a petition under Section 166/140 the Motor Vehicles Act, 1988, seeking compensation on account of death of their son Naveen, due to the injuries suffered by him in the motor vehicle accident, which took place on 12.01.2016. Deceased was claimed to be 21 year old and working as salesman in a grocery shop, thereby earning salary of Rs.8,000/- per month.

FAO No. 8059 of 2017

-2-

Learned Tribunal on considering the evidence on record concluded that Naveen lost his life due to the injuries received by him in the accident in question, which took place on 12.01.2016, due to the rash and negligent driving of the offending truck bearing registration No. HR-28G-0177, by its driver Khushi - respondent no.1. Learned Tribunal accepted Naveen to be 21 years old at the time of accident. His income was assessed as Rs.8,000/- per month. Multiplier of 18 was applied and vide order dated 11.04.2017, the deduction of 50%, which was not reflected in the award dated 10.03.2017, due to a typographical error, was carried out. Sum of Rs.10,000/- as loss of estate, Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of love and affection was afforded. A total sum of Rs.9,99,000/- was awarded as compensation to the claimants. Present appeal has been filed seeking enhancement of the aforesaid compensation.

The sole ground raised by learned counsel for the appellants is that increment towards future prospects has not been afforded by the learned Tribunal. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **National Insurance Company Limited v. Pranay Sethi and ors., 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 compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

FAO No. 8059 of 2017

-3-

There is no dispute regarding death of Naveen, aged 21 years, in the motor vehicle accident, which took place on 12.01.2016, due to the rash and negligent driving of the offending truck bearing registration No. HR-28G-0177, by its driver Khushi - respondent no.1. There is also no dispute regarding the income of the deceased as assessed by the learned Tribunal i.e. Rs.8,000/- per month.

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, 40% increment has to be afforded on account of future prospects. Deduction of 1/2 was correctly effected by learned Tribunal. As the deceased was admittedly 21 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. However, instead of Rs.25,000/- awarded by the learned Tribunal towards funeral expenses, claimants are entitled to a sum of Rs.15,000/- on account of funeral expenses. Instead of Rs.10,000/- awarded by the learned Tribunal on account of loss of estate, claimants are also entitled to a sum of Rs.15,000/- on this count. Appellants are entitled to a sum of Rs.40,000/- on account of loss of filial consortium and not to a sum of Rs.1,00,000/- towards loss of love and affection as awarded by the learned Tribunal. Reference in this regard can gainfully be made to 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-2110-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income	8,000 x 12 = 96,000/- per annum
2.	Income after deducting 1/2 as personal living expenses of the deceased	96,000 - 48,000/- (96,000 x 1/2) = 48,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	48,000 + 19,200 (48,000 x 40%) = 67,200/-
4.	Dependency after applying multiplier of 18	67,200 x 18 = 12,09,600/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of filial consortium	40,000/-
	Total	12,79,600/-

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 at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

December 04, 2019.

Sunil

(LISA GILL)
JUDGE

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