

FAO No. 8088 of 2017

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

FAO No. 8088 of 2017

Date of Decision: August 26, 2019

Hasina Khatoon and others

..... Appellants(s)

Versus

Ashok and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sudhir Mann, Advocate for
Mr. Abhinav Kalia, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with
vide order dated 13.09.2018.

Mr. Lalit Garg, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 01.04.2017, passed by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal).

Appellants-claimants who are the widow and parents of the deceased Karri, filed a petition under Section 166/140 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Karri due to the

injuries suffered by him in the motor vehicle accident, which took place on 15.11.2015. Deceased was claimed to be earning a sum of Rs.15,000/- per month by doing agriculture/labour work.

Learned Tribunal on considering the evidence on record concluded that the accident in question indeed took place on 15.11.2015 due to the rash and negligent driving of the offending bus bearing registration No. HR-67A-5321, by its driver Ashok-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.5,813/- per month with reference to the minimum wages available to an unskilled labourer in the State of Haryana at the time of the accident **(though calculations have been made by taking monthly income to be Rs.5,837/- per month)**, awarded a sum of Rs.10,67,400/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	5837/- per month
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	5837 - 1/3 rd = 3,900/-
3.	Dependency after applying multiplier of 18	3,900 x 12 x 18 = 8,42,400/-
4.	Funeral expenses	25,000/-
5.	Loss of consortium	1,00,000/-
6.	Loss of love and affection	1,00,000/-
	Total	10,67,400/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

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Learned counsel for the appellants submits that future prospects in terms of judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** have not been awarded. However, it is fairly stated that compensation under the conventional heads be re-worked in terms of the said judgment 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.

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

There is no dispute regarding death of Karri in the motor vehicle accident, which took place on 15.11.2015, due to the rash and negligent driving of the offending bus bearing registration No. HR-67A-5321, by its driver Ashok-respondent no.1. There is further no dispute regarding income of the deceased to be Rs.5,813/- per month as assessed by the learned Tribunal or the deceased being 21 years old at the time of the accident. 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

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prospects. Deduction of $1/3^{\text{rd}}$ was correctly effected by learned Tribunal. Multiplier of 18 was also correctly applied by the learned Tribunal. Instead of a sum of Rs.25,000/- awarded towards funeral expenses, the appellants are entitled to a sum of Rs.15,000/- each towards funeral expenses and loss of estate. Appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium (instead of Rs.1,00,000/- as awarded by the learned Tribunal on account of loss of consortium). Appellants no.2 and 3 are entitled to a sum of Rs.40,000/- towards loss of filial consortium (instead of Rs.1,00,000/- as awarded by the learned Tribunal on account of loss of love and affection). 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-2011-2016, 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	5,813/-
2.	Total income after addition at the rate of 40% on account of future prospects	$5,813 + 2,325 = 8,138/-$
3.	Income after deducting $1/3^{\text{rd}}$ as personal living expenses of the deceased	$8,138 - 1/3^{\text{rd}} = 5,425/-$
4.	Dependency after applying multiplier of 18	$5,425 \times 12 \times 18 = 11,71,800/-$

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5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of filial consortium to appellants no.2 and 3	40,000/-
	Total	12,81,800/-

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.

August 26, 2019.
Sunil

(LISA GILL)
JUDGE

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