

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

FAO No. 8382 of 2017

Date of Decision: November 14 , 2019.

Smt. Ramrati

..... APPELLANT

Versus

Deepak and others

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.S.Malik, Advocate
for the appellant.

Mr. Akash Sridhar, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.3 – Insurance company

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to her by the learned Motor Accident Claims Tribunal, Sonipat (for short, the 'Tribunal') vide impugned award dated 14.07.2017 on account of death of her son, Ajay in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimant filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of her son, Ajay, who lost his life in a motor

vehicle accident which took place on 04.06.2016. FIR No.197 dated 05.06.2016 under Sections 279/304A IPC, Police Station Kundli, District Sonipat was registered in respect to the incident. Deceased-Ajay, aged 29 years, is pleaded to be working as a Salesman at M/s Haryana Auto Parts, Shop No.1, Railway Road, Narela, Delhi, earning a sum of ₹15,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Ajay 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 car bearing registration No.DL-4CN-3418 by respondent No.1-Deepak. Learned Tribunal, while assessing income of the deceased as ₹6,000/- per month, awarded a total amount of ₹9,93,000/- to the claimant. Increase in income was afforded at the rate of 50% on account of future prospects. Deduction to the extent of 50% was effected. Multiplier of 17 was applied. ₹25,000/- was awarded on account of funeral expenses, besides, ₹50,000/- on account of loss of love and affection.

Learned counsel for the appellant argues that income of the deceased has been wrongly assessed by the learned Tribunal as ₹6,000/- per month, which is even less than the minimum wage available to an unskilled labourer in the State of Haryana at the relevant time. It is, however, stated that compensation under the conventional heads be reworked in terms of the judgments of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 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 the amount of compensation awarded to the appellant be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that no ground is made out for any enhancement. 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 death of Ajay in a motor vehicle accident which took place on 04.06.2016 due to the rash and negligent driving of the offending vehicle bearing registration No.DL-4CN-3418 by respondent No.1-Deepak. There is no challenge to this finding of the learned Tribunal in this regard. There is no dispute regarding age of the deceased to be 29 years at the time of his death.

Learned Tribunal has assessed income of the deceased to be ₹6,000/- per month while observing that there is no evidence on record to prove that he was working as a Salesman at M/s Haryana Auto Parts, Shop No.1, Railway Road, Narela, Delhi. Learned counsel for the appellant is unable to deny that there is indeed no evidence on record to indicate either the vocation or the exact income earned by the deceased. It is, however, a matter of record that minimum wage available to an unskilled labourer in the State of Haryana at the time of the accident, was ₹7,976/- per month. Income of the deceased is, thus, assessed as ₹8,000/- per month (rounded of).

Claimant is entitled to increment at the rate of 40% instead of 50% on account of future prospects in terms of the judgment of the Hon'ble Supreme

in **Pranay Sethi (supra)**. Deduction to the extent of 50% has been rightly effected. Multiplier of 17 has been correctly applied as well.

Instead of ₹25,000/- towards funeral expenses, ₹15,000/- is awarded to the claimant, besides, another sum of ₹15,000/- towards loss of estate. The claimant i.e., mother of the deceased is not entitled to ₹50,000/- on account of loss love and affection. She is held entitled to ₹40,000/- towards loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. (supra)** 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**).

Appellant is, thus, entitled to compensation which is reworked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	8,000 per month i.e., 96,000 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	96,000 + (96,000 x 40%) = 1,34,400
3.	Deduction of 50% on account of personal expenses	1,34,400 – (1,34,400 x 1/2) = 67,200
4.	Total dependancy after applying a multiplier of 17	(67,200 x 17) = 11,42,400
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium to the appellant	40,000
Grand Total		₹12,12,400/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellant 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. Manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

November 14 , 2019.
'om'

(LISA GILL)
JUDGE

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