

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

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FAO-8472-2017(O&M)

Date of Decision : August 27, 2019

UMESH YADAV AND ORS

.....Appellants

VERSUS

SURBHI PAHWA AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Rajesh Goyal, Advocate for the appellants.
Mr. Sanjeev Goyal, Advocate for respondent No.3.

NIRMALJIT KAUR, J. (Oral)

CM-27563-CII-2017

Allowed, as prayed for.

CM-27562-CII-2017

For the reasons mentioned in the application, the application
is allowed and the delay of 10 days in re-filing of the appeal is condoned.

CM-27564-CII-2017

For the reasons mentioned in the application, the application
is allowed and the delay of 122 days in filing of the appeal is condoned.

FAO-8472-2017

The present appeal is filed for enhancement of the amount
granted by the Motor Accident Claims Tribunal, Panipat vide award
dated 6.12.2016.

While praying for enhancement, learned counsel for the
appellants submitted that the income of the deceased has been taken on
the lower side whereas it should have been atleast Rs.7,600/- per month
as per the notification for the month of November, 2015 with respect to
the unskilled labourer. Secondly, only Rs.10,000/- towards consortium

has been awarded whereas it should be atleast Rs.40,000/- qua each of the claimants.

Learned counsel for the respondent-Insurance Company while opposing the enhancement submitted that as per the notification for the month of July, 2015, the minimum wages was Rs.6,000/- per month for unskilled labourer and the accident had taken place in the month of July, 2015. Secondly, the amount towards the future prospects requires to be reduced to 40% in view of the judgment rendered in the case of **National Insurance Company Limited vs. Pranay Sethi and others,** 2017 AIR(SC) 5157 but the learned counsel for the respondent-Insurance Company admitted that the appellants were entitled to the increase under the head of consortium but submitted that the same could only be approved to the maximum limit of Rs.70,000/- as per the Pranay Sethi's case (supra).

In view of the above, this Court is of the opinion that the income of the deceased requires enhancement to Rs.6,000/- per month instead of Rs.5,000/- per month keeping in mind the notification qua the minimum wages for the month of July, 2015. The appellants-claimants are also entitled for enhancement under the consortium head. There is dispute with respect to the quantum under this head. As per the judgment in the case of **National Insurance Company Limited vs. Pranay Sethi and others,** 2017 AIR(SC) 5157, the maximum amount to be granted under this head as Rs.70,000/-. At the same time, we cannot loose sight of the judgment in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram & Ors.,** 2018(4) R.C.R.(Civil) 333 wherein

Rs.40,000/- has been granted to each of the claimants. Under these circumstances, this Court finds that it would be fair and just to award a total amount of Rs.40,000/- each to only four of the claimants towards the parents and the two minor children i.e. Rs.1,60,000/-. However, while following the Pranay Sethi's case (supra), the future prospects has to be reduced to 40%. Accordingly, the appellants are entitled to the enhanced amount of as per the following calculation:-

Sr. No.	Head	Amount assessed
1	Income	Rs.6000/- p.m. x 12 = Rs.72000/-
2	Future Prospects @ 40%	(72000 x 40% = Rs.28800) 72000+28800 = 100800/-
3	Deduction 1/4 th	100800 x 1/4 = Rs.25200/- 100800-25200 = 75600
4	Multiplier	75600 x 18 =Rs.1360800/-
5	Conventional Heads	Rs.1,60,000/-
6	Total	Rs.1520800/-
7	Compensation awarded by the Tribunal	Rs.12,25,000/-
8	Differences	Rs.2,95,800/-

Accordingly, the present appeal is allowed to the said extent. The enhanced amount of Rs.2,95,800/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

August 27, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No