

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

FAO No. 8611 of 2017(O&M)

Date of Decision: October 14 , 2019.

Manpreet Kaur and others

..... APPELLANT (s)

Versus

Banwari Lal and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Swarn Sandhir, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3 – Insurance company

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, Patiala (for short, the 'Tribunal') vide impugned award dated 04.08.2017 on account of death of Raju @ Raju Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the appellants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Raju @ Raju Singh, who lost his life in a motor vehicle accident which took place on 09.02.2017. FIR (Ex.P1) was lodged in respect to the accident against respondent No.1-driver. The deceased was pleaded to be 30 years old and working as a driver, earning a sum of ₹20,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Raju @ Raju Singh died due to the injuries received by him in an accident which took place due to the rash and negligent driving of Tralla bearing registration No.RJ-07GA-7662 by respondent No.1-Banwari Lal. The deceased was held to be 32 years old at the time of the accident and income of the deceased was assessed as ₹8,000/- per month. A total amount of ₹12,49,128/- was awarded to the claimants. Deduction to the extent of 1/3rd was effected. Multiplier of 16 was applied. ₹1,00,000/- was awarded to claimant-widow on account of loss of consortium, besides, another sum of ₹1,00,000/- to minor children of the deceased on account of loss of love and affection. ₹25,000/- was awarded towards funeral expenses.

Learned counsel for the appellants argues that increment on account of future prospects should be afforded. It is submitted 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 appellants be enhanced accordingly.

Per contra, learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and prays for dismissal of the appeal. It is submitted that just and reasonable has been awarded by the learned Tribunal, which does not call for any enhancement.

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

the file.

There is no dispute regarding death of Raju @ Raju Singh in a motor vehicle accident which took place on 09.02.2017 due to the rash and negligent driving of the offending vehicle bearing registration No.RJ-07-GA-7662 by respondent No.1-Banwari Lal. Finding of the learned Tribunal in this regard has attained finality.

Appellants have claimed deceased-Raju @ Raju Singh to be working as a driver and earning ₹20,000/- per month. However, apart from the bald statement of the appellant herself, no evidence has been led to prove employment of the deceased or earning a sum of ₹20,000/- per month by him. Therefore, in the absence of the record, income of the deceased has been correctly assessed by the learned Tribunal as ₹8,000/- per month and is so upheld.

Age of the deceased is accepted to be 32 years. Multiplier of 16 has been correctly applied by the learned Tribunal. Deduction to the extent of 1/3rd has been rightly effected as well. However, appellants-claimants are held entitled to increment at the rate of 40% on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Instead of ₹1,00,000/-, appellant No.1-widow is entitled to ₹40,000/- on account of loss of spousal consortium and appellants No.2 and 3, minor children are entitled to a sum of ₹40,000/-, instead of ₹1,00,000/-, towards loss of parental 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**). Instead of ₹25,000/- towards funeral expenses,

₹15,000/- is awarded. Additionally, ₹15,000/- is awarded to the appellants on account of loss of estate.

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	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 1/3 rd on account of personal expenses	1,34,400 – (1,34,400 x 1/3) = 89,600
4.	Dependancy after applying a multiplier of 16	(89,600 x 16) = 14,33,600
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 and 3	40,000
Grand Total		₹15,43,600/-

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 on the enhanced amount at the rate of 7.5% per annum on the entire amount instead of 7%, from the date of filing of the petition till realization. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

October 14 , 2019.
'om'

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