

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

FAO No. 617 of 2018

Date of Decision: September 30 , 2019.

Nirmala Devi and another

..... APPELLANT (s)

Versus

Bijender Singh and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kartar Singh Malik-I, Advocate
for the appellants.

Mr. Sachin Ohri, Advocate
for respondent No.2 – 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, Rohtak (for short, the 'Tribunal') vide impugned award dated 09.10.2017 on account of death of Gagan son of Zile Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants i.e., the widow mother and sibling of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Gagan, who lost his life in a motor vehicle accident which took place on 24.08.2012. FIR No.146 (Ex.P2) dated 24.08.2012 was lodged against respondent No.1-driver in respect to the accident. It is pleaded that deceased-Gagan was a cricket player and a meritorious student, earning ₹20,000/- per month by giving

cricket coaching and tuition to students upto middle standard. Compensation to the tune of ₹20 lakhs was prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Gagan son of Zile Singh succumbed to the injuries sustained by him in the motor vehicle accident, which took place due to the rash and negligent driving of car bearing registration No.HR-15A-8585 by respondent No.1- Bijender Singh. The deceased was accepted to be 18 years old at the time of the accident and his income was assessed as ₹5,950/- per month. A total sum of ₹8,67,600/- was awarded to the claimants by the learned Tribunal. Deduction to the extent of 50% was effected. Multiplier of 18 was applied. ₹25,000/- was awarded towards funeral expenses. ₹1,00,000/- each was awarded to both the claimants on account of loss of consortium.

Aggrieved of the quantum of compensation, this appeal has been filed by the claimants.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed with reference to the wages of unskilled labourer at the relevant time. It is further submitted that the deceased was a student of Class 10+2 at the time of his death. He had cleared his matriculation examination and would have been able to earn much more than assessed by the learned Tribunal. Moreover, increment on account of future prospects, it is submitted, has not been afforded, though it is fairly stated that the compensation under the conventional heads may be reworked in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680.** It is thus prayed that the total

compensation awarded to the appellants be enhanced accordingly.

Per contra, learned counsel for respondent No.2-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal, which does not call 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 Gagan in a motor vehicle accident which took place on 24.08.2012 due to the rash and negligent driving of the offending vehicle bearing registration No. HR-15A-8585 respondent No.1-Bijender Singh. Finding of the learned Tribunal in this regard has attained finality.

It is a matter of record that the deceased was 18 years old at the time of his death and he was pursuing his studies of 10+2 at the time of his death. Ex.P9, is the certificate issued by the Principal, Government Senior Secondary School, Lakhan Majra in this respect. Claimant, PW2 Nirmala, mother of the deceased, has specifically deposed in this respect. Date of birth of the deceased is duly reflected in his birth certificate (Ex.P4). Learned Tribunal assessed income of the deceased-Gagan son of Zile Singh with reference to the rates fixed by the Deputy Commissioner, Rohtak. It is to be noted that minimum wage available to an unskilled labourer in the State of Haryana was ₹4,967/- per month at the relevant time. Keeping in view the fact that the deceased had cleared matriculation examination, it is considered just and expedient to assess income of the deceased as ₹6,200/- per month.

It is a matter of record that the deceased was 18 years old at the time

of his death, therefore, claimants are 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)**. Deduction to the extent of 50% has been correctly effected. Multiplier of 18 has been rightly applied as well. Instead of ₹25,000/- towards funeral expenses, the claimants are entitled to ₹15,000/- besides, another sum of ₹15,000/- on account of loss of estate. Instead of ₹1,00,000/- each to both the claimants, appellant No.1, mother of the deceased is held entitled to ₹40,000/- on account of loss of filial consortium in terms of 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 No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

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	6,200 per month i.e., 74,400 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	74,400 + (74,400 x 50%) = 1,04,160
3.	Deduction of 50% on account of personal expenses	1,04,160 – (1,04,160 x 1/2) = 52,080
4.	Dependancy after applying a multiplier of 18	(52,080 x 18) = 9,37,400
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium to appellant No.1	40,000
Grand Total		₹10,07,440/-

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, 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.

September 30 , 2019.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No