

FAO No. 6498 of 2018 (O&M)

-1-

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

FAO No. 6498 of 2018 (O&M)

Date of Decision: April 12, 2019

Rukseena and others

..... Appellants(s)

Versus

Khali Mohammad and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ankur Gupta, Advocate for
Mr. Rakesh Dhiman, Advocate
for the appellants.

Mr. Amit Kundra, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

Notice in the application for condonation of delay. Notice of
motion in the appeal as well.

Mr. Amit Kundra, Advocate accepts notice on behalf of
respondent no.3-insurance company. Copy of paper book has been handed
over to him.

Learned counsel for the appellants submits that liability of the
insurance company is not in dispute, therefore, service of respondent nos.1
and 2 may be dispensed with at this stage.

Ordered accordingly.

There is a delay of 24 days in filing of the appeal.

FAO No. 6498 of 2018 (O&M)

-2-

For the reasons mentioned in the application, duly supported by an affidavit of the applicant, as well as arguments addressed, delay of 24 days in filing of the appeal is condoned.

Application is disposed of.

The sole argument raised by learned counsel for the appellants in this case is that compensation awarded under the conventional heads, is required to be enhanced.

Learned counsel for respondent no.3 – insurance company, however, submits that just and reasonable compensation has been awarded by the learned Tribunal which calls for no enhancement. Dismissal of this appeal is prayed for.

Learned Tribunal in the petition under Section 166 of the Motor Vehicles Act preferred by the appellants, awarded a sum of Rs.19,35,360/- as compensation on account of death of Salim. Salim was held to be 28 years old at the time of accident. His income was assessed as Rs.9,000/- per month while treating him to be a casual labourer. An addition of 40% on account of future prospects was afforded, after applying multiplier of 16 and deduction of 1/5th dependency was calculated @ Rs.19,35,360/- per annum. Claimants were awarded a sum of Rs.20,000/- for funeral expenses, transportation etc.

Keeping in view 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**

FAO No. 6498 of 2018 (O&M)

-3-

Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333, as well as decision dated 14.03.2019 of this Court in FAO-2110 of 2016 (**Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others**, claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of the consolidated sum of Rs.20,000/- awarded by the learned Tribunal under the conventional heads. Appellant No.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal 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**. Additionally, the minor children of the deceased are entitled to a sum of Rs.40,000/- towards loss of parental consortium.

Appellants-claimants are, thus, entitled to compensation of Rs.20,45,360/- (instead of Rs.19,35,360/-) which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Gross income 9000 x 12	1,08,000/- per annum
2.	Income after deducting 1/5 th as personal living expenses	1,08,000 – 21,600 = 86,400/-
3.	Total income after addition at the rate of 40% on account of future prospects	86,400+34,560 (30,000 x 25%) = 1,20,960/-
4.	Compensation after applying multiplier of 16	1,20,960 x 16 = 19,35,360/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of consortium to children	40,000/-
	Total	20,45,360/-

FAO No. 6498 of 2018 (O&M)

-4-

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.

April 12, 2019.

Sunil

**(LISA GILL)
JUDGE**

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