

FAO No. 7302 of 2018 (O&M)

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

FAO No. 7302 of 2018

Date of Decision: November 14, 2019

Sushila Devi and others

..... Appellants(s)

Versus

Raj Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vivek Suri, Advocate
for the appellants.

None for respondents no.1 & 2, despite service.

Mr. Sachin Ohri, Advocate
for respondent no.3-insurance company.

LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 12.10.2017, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal).

Claimants who are the widow and three minor daughters of the deceased Ranjit Paswan, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Ranjit Paswan, due to the injuries suffered by him in the motor vehicle accident, which took place on 27.06.2016. Deceased was claimed to be 33 years old, and running a salon, thereby earning Rs.20,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Ranjit Paswan lost his life due to the injuries received by him in the motor vehicle accident, which took place on 27.06.2016, due to the rash and negligent driving of the offending car bearing registration No. PB-11-BK-1613, by its driver Raj Kumar - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.7,500/- per month by considering him to be a labourer, awarded a sum of Rs.12,05,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	7,500/- per month
2.	Income after deducting 1/4 th as personal living expenses of the deceased	7,500/- minus 1,875/- = 5,625/-
3.	Dependency after applying multiplier of 16	5,625 x 12 x 16 = 10,80,000/-
4.	Loss of consortium to widow	1,00,000/-
5.	Funeral expenses	25,000/-
	Total	Rs.12,05,000/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants does not dispute the income of the deceased as assessed by the learned Tribunal but seeks increment towards future prospects. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and **Magma General Insurance Company**

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Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333. It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this 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 Ranjit Paswan in the motor vehicle accident, which took place on 27.06.2016, due to the rash and negligent driving of the offending car bearing registration No. PB-11-BK-1613, by its driver Raj Kumar-respondent no.1. There is also no dispute regarding age or the income of the deceased as assessed by the learned Tribunal. Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680***, 40% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. As the deceased was admittedly 33 years old at the time of the accident, multiplier of 16 was correctly applied by learned Tribunal. However, instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 to 4 are entitled to a sum of Rs.40,000/- towards loss of parental consortium. Reference in this regard can gainfully be made to 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-2110-2016, title *Shri Ram General Insurance Company 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 Rs.25,000/- awarded by the learned Tribunal towards funeral expenses.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income	7,500 x 12 = 90,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	90,000 - 22,500/- (90,000 x 1/4 th) = 67,500/-
3.	Total income after addition at the rate of 40% on account of future prospects	67,500 + 27,000 = 94,500/-
4.	Dependency after applying multiplier of 16	94,500 x 16 = 15,12,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 to 4	40,000/-
	Total	16,22,000/-

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 entire amount, from the date of filing of the claim petition till realization.

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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.

November 14, 2019.

Sunil

**(LISA GILL)
JUDGE**

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