

FAO No. 981 of 2018

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

FAO No. 981 of 2018

Date of Decision: May 27, 2019

Paramjit Kaur and another

..... Appellants(s)

Versus

Jasvir Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjeev Goyal, Advocate
for the appellants.

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

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the appellants-claimants vide award dated 29.04.2017, passed by learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal) on account of death of Gurcharan Singh.

Appellants-claimants i.e. the wife and mother of deceased Gurcharan Singh filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Gurcharan Singh, due to the injuries suffered by him in the motor vehicle accident, which took place on 14.10.2015, due to the rash and negligent driving of the offending

bus bearing registration No. PB-13-T-9984, by its driver, namely Jasvir Singh-respondent no.1. Learned Tribunal on considering the evidence on record concluded that the Gurcharan Singh lost his life in the motor vehicle accident, which took place due to the rash and negligent driving of the offending bus bearing registration No. PB-13-T-9984, by its driver namely Jasvir Singh-respondent no.1. This finding of the learned Tribunal has attained finality.

The deceased was claimed to be working as a skilled mechanic, undertaking the repair and fitting of tyres under contract with Kanjhla Tyre Service, Dhuri and earning more than Rs.25,000/- per month. Learned Tribunal while accepting the deceased to be a skilled mechanic, assessed his income as Rs. 7,715.62 paisa and awarded a sum of Rs.9,87,481/- as compensation, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income	7,715.62/- per month
2.	Income after deducting 1/3 rd as personal living expenses of the deceased	7,715 (7,715 x 1/3 rd) = 5,144/-
3.	Dependency after applying multiplier of 13	5,144 x 12 x 13 = 8,02,464/-
4.	Loss of consortium to claimant no.1	1,00,000/-
5.	Loss of love and affection to claimant no.2	50,000/-
6.	Funeral expenses to claimant no.1	25,000/-
7.	Cost of treatment	10,017/-
	Total	9,87,481/-

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

Learned counsel for the appellants argues that learned Tribunal has erred in assessing the income of the deceased as Rs.7,715.62/- per month because even the minimum wage of a skilled labourer in the State of Punjab at the relevant time was Rs.8,612.62/- per month. Moreover, increment on account of future prospects has not been afforded. It is, however, fairly stated that compensation under the conventional heads be reworked in terms of **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.**

Learned counsel for the insurance company 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.

There is no dispute regarding death of Gurcharan Singh in the motor vehicle accident, which took place on 14.10.2015, due to the rash and negligent driving of the offending bus bearing registration No. PB-13-T-9984, by its driver Jasvir Singh-respondent no.1. Learned Tribunal has accepted the deceased to be a skilled mechanic. PW-1 Paramjit Kaur – widow of deceased Gurcharan Singh as well as PW-3 Amrik Singh have

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deposed in this regard. PW-3 Amrik Singh has categorically testified that deceased Gurcharan Singh was working with him under contract. Though the exact income of the deceased is not forthcoming from the record, he is indeed entitled to the minimum wage of a skilled labourer in the State of Punjab at the relevant time. Learned counsel for the insurance company is unable to deny that minimum wage of a skilled labourer in the state of Punjab was Rs.8,612.62/- per month at the time of the accident. Income of the deceased is accordingly assessed as 8,613/- per month. No dispute has been raised regarding the age of the deceased which was accepted to be 50 years at the time of the accident, on the basis of the postmortem report Ex.C-2. 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***, 25% increment is afforded on account of future prospects. Deduction of 1/3rd was correctly effected by learned Tribunal. Multiplier of 13 was also correctly applied by learned Tribunal. 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. 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 Rs.40,000/- on this count. Appellant no.2 is entitled to a sum of Rs.40,000/- towards loss of filial consortium and not Rs.50,000/- awarded by learned Tribunal on account of loss of love and affection. Reference in this regard can gainfully be made to the judgment of 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, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others. It is submitted that Gurcharan Singh was hospitalized from 15.10.2015 to 18.10.2015 in PGI, Chandigarh and ultimately succumbed to his injuries on 18.10.2015 on account of the injuries. Therefore, the compensation on account of medical expenses is enhanced from Rs.10,017/- to Rs.25,000/-.

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

Sr. No.	Heads	Calculations
1.	Income 8,613 x 12	1,03,356/- per annum
2.	Income after deducting 1/3 rd as personal living expenses	1,03,356 - 34,452 = 68,904/-
3.	Income after addition of 25% on account of future prospects	68,904 +(68,904 x 25%) = 86,130/-
4.	Compensation after applying multiplier of 13	86,130 x 13 = 11,19,690/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of filial consortium to appellant no.2	40,000/-
9.	Medical expenses	25,000/-
	Total	12,54,690/-

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.

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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.

May 27, 2019.
Sunil

(LISA GILL)
JUDGE

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