

FAO No. 580 of 2017 (O&M)

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

FAO No. 580 of 2017 (O&M)

Date of Decision: October 31, 2019

Inderjit Kaur and others

..... Appellants(s)

Versus

Amrik Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Mr. Gurmeet Singh, Advocate
for respondents no.1 and 2.

Mr. Vinod Gupta, Advocate
for respondent no.3.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 13.10.2015, passed by learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal).

Appellants-claimants, who are the widow and three children of the deceased Gurdas Singh, filed a petition under Sections 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Gurdas Singh, due to the injuries suffered by him in the motor vehicle accident, which took place on 10.04.2012, due to the rash and negligent driving of the

offending truck bearing registration No. PB-23-E-0434, by its driver Amrik Singh - respondent no.1. Deceased was claimed to be a mason, thereby earning Rs.10,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Gurdas Singh died due to the injuries received by him in the motor vehicle accident, which took place on 10.04.2012, due to the rash and negligent driving of the offending truck bearing registration No. PB-23-E-0434, by its driver Amrik Singh - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.6,000/- per month while considering him to be an unskilled labourer and accepting his age to be 52 years, awarded a sum of Rs.7,19,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income 6,000 x 12	72,000/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	72,000-18,000 = 54,000/-
3.	Income after applying multiplier of 11	54,000 x 11 = Rs.5,94,000/-
4.	Loss of consortium to claimant no.1 - widow	1,00,000/-
5.	Funeral expenses	25,000/-
	Total	7,19,400/-

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

Learned counsel for the appellants does not dispute the income or age of the deceased as assessed by the learned Tribunal. However, it is submitted that increment on account of future prospects be awarded in terms of the judgment of Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680***. Compensation under the conventional heads be re-worked 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***. It is thus prayed that the present appeal be allowed and the total compensation awarded to the claimants be enhanced.

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 and have gone through the record with their able assistance.

There is no dispute regarding death of Gurdas Singh in the motor vehicle accident, which took place on 10.04.2012, due to the rash and negligent driving of the offending truck bearing registration No. PB-23-E-0434, by its driver Amrik Singh-respondent no.1. It is a matter of record that the deceased was 52 years old at the time of the accident and he was claimed to be working as a mason. No dispute has been raised regarding the income of the deceased as assessed by the learned Tribunal.

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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**, 10% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. Multiplier of 11 was also correctly applied by learned Tribunal. 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 also 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**. A sum of Rs.25,000/- has been awarded by the learned Tribunal towards funeral expenses. In view of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**, the appellants are entitled to a sum of Rs.15,000/- towards funeral expenses and another sum of Rs.15,000/- towards loss of estate.

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

Sr. No.	Heads	Calculations
1.	Income 6,000 x 12	72,000/- per annum

2.	Income after deducting 1/4 th as personal living expenses of the deceased	72,000 - 18,000/- (72,000 x 1/4) = 54,000/-
3.	Total income after addition at the rate of 10% on account of future prospects	54,000 + 5,400 (54,000 x 10%) = 59,400/-
4.	Dependency after applying multiplier of 11	59,400 x 11 = 6,53,400/-
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 to 4	40,000/-
	Total	7,63,400/-

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. 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.

(LISA GILL)
JUDGE

October 31, 2019.

Sunil

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